UNITED STATES PATENT AND TRADEMARK OFFICE

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HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Application of :
Ragusa, et al. :
Application No. 10/266,308 : DECISION
Filed/Deposited: 8 October, 2002 :
Attorney Docket No. T00091 :

This is a decision on the petition filed on 30 August, 2010, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

NOTE:

The instant petition was not filed until some twenty-one (21) months after abandonment and seventeen (17) months after Notice thereof.

Petitioner's explanation for the enormous delay in addressing this matter is set forth in all of a dozen lines of the petition and with no support from the other person or persons who apparently were involved in the delay.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

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

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the non-final Office action mailed on 25 August, 2008, with reply due absent extension of time on or before 25 November, 2008.

The application went abandoned by operation of law after midnight 25 November, 2008.

The Office mailed the Notice of Abandonment on 1 April, 2009.

On 30 August, 2010—nearly seventeen months after the Office mailed the Notice of Abandonment—Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred timely submission of a reply on 25 February, 2009, in the form of an amendment and a request and fee for extension of time. Petitioner sets forth the substance of the reasons for the long-extended delay in submitting this request for relief in all of twelve line, stating that Petitioner:

> ... presented the Petition and supporting documents on April 2, 2009, to an employee with instructions for filing on April 2, 2009. [Petitioner] believed that the Petition and Documents were filed on April 2, 2009. However on August 30, 2010, while searching through materials including this case for potentially filing an information disclosure statement for another case, contrary to the [Petitioner's] belief, the [Petitioner] discovered that this Petition had not been filed as instructed.

There is nothing in support of that history, such as the statement of the employee averred to have been assigned the duty of filing the petition and documents in support of the averment. Such failure to monitor the application does not comport with the requirements of diligence in practice before the Office as described in *Pratt*.[1]

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[1] *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); *In re Mattullath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

Thus, Petitioner did not comply with the guidance as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

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>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3)

accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

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Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

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C.Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as

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[2] *See*: MPEP §711.03(c) (I)(B).

untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

If Petitioner is unable to comply with and/or otherwise satisfy these requirements, Petitioner may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

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

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

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JAN 04 2011

OFFICE OF PETITIONS

In re Application of :
Ragusa, et al. :
Application No. 10/266,308 : DECISION
Filed/Deposited: 8 October, 2002 :
Attorney Docket No. T00091 :

This is a decision on the petition filed on 1 December, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, alternatively, a petition pursuant to 37 C.F.R. §1.137(b) seeking revival of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the non-final Office action mailed on 25 August, 2008, with reply due absent extension of time on or before 25 November, 2008.

The application went abandoned by operation of law after midnight 25 November, 2008.

The Office mailed the Notice of Abandonment on 1 April, 2009.

On 30 August, 2010—nearly seventeen months after the Office mailed the Notice of Abandonment—Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred timely submission of a reply on 25 February, 2009, in the form of an amendment and a request and fee for extension of time. Petitioner sets forth the substance of the reasons for the long-extended delay in submitting this request for relief in all of twelve line, stating that Petitioner:

> ... presented the Petition and supporting documents on April 2, 2009, to an employee with instructions for filing on April 2, 2009. [Petitioner] believed that the Petition and Documents were filed on April 2, 2009. However on August 30, 2010, while searching through materials including this case for potentially filing an information disclosure statement for another case, contrary to the [Petitioner's] belief, the [Petitioner] discovered that this Petition had not been filed as instructed.

The record did not support that history, such as the absence of statement of the employee averred to have been assigned the duty of filing the petition and documents in support of the averment. Such failure to monitor the application does not comport with the requirements of diligence in practice before the Office as described in *Pratt*.[1] The petition was dismissed on 4 October, 2010, with the express statement as to the failure of timeliness.

On 1 December, 2010, Petitioner re-advance the petition pursuant to 37 C.F.R. §1.181 and also submitted a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reference to the previously submitted reply in the form of an amendment, and statement of unintentional delay.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

> ***
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate

[1] *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); *In re Mattullath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

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Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

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[2] *See*: MPEP §711.03(c) (I)(B).

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C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of

representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported, and the timeliness requirement under the Rule.

Petitioner appears not to have made the showing required as to timeliness.

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements pursuant to the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**; the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

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

Application No. 10/266,308

The instant application is released to Technology Center/AU 2162 for further processing in due course (consideration of the amendment submitted).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the RC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7012785	2006-03-14	10266539	2002-10-07	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2010-12-08
Name	Benoit CASTEL	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7012785
Issue Date: March 14,2006
Application No. 10266539
Filed: October 7,2002
Attorney Docket No. 139-022UP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,596,518

DATED: August 10, 2011

INVENTOR(S): Theodore S. Rappaport, Roger R. Skidmore

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please see pages 1-4 of the certificate of correction filed July 19, 2011.

/JASON DUNHAM/
Supervisory Patent Examiner.Art Unit 3684

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/26/11

TO SPE OF : ART UNIT 3684

SUBJECT : Request for Certificate of Correction for Appl. No.: 10266711 Patent No.: 7596518

CofC mailroom date: 07/19/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: _____

_____ *Lamonte Newsome*

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Jason Dunham/ 08/10/11

SPE **Art Unit** 3684

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Frazier, et al. :
Application No. 10/267,150 : ON APPLICATION FOR
Filed: October 8, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. **026595-002210US**:
:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705", filed March 31, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is one thousand, five hundred and ninety-eight (1,598) days, not one thousand, six hundred (1,600) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for reconsideration of patent term adjustment is DISMISSED.

On December 31, 2009, a "Determination of Patent Term Adjustment under 35 U.S.C. 154(b)" was mailed indicating that the initial patent term adjustment is 1,600 days. The instant petition under 37 CFR 1.705(b) was filed on March 31, 2010—on the same day that issue fee was paid. Petitioner asserts that the initial patent term adjustment is 1,598. Specifically, petitioner states that:

> [a]n Advisory Action was mailed on June 23, 2008. The Applicants filed a Notice of Appeal and Pre-Appeal Brief Request on August 11, 2008. A Notice of Panel Decision from Pre-Appeal Brief review was mailed February 11, 2009, wherein prosecution was reopened. Since prosecution was reopened, the time from the mailing date of the Advisory Action to the Panel Decision was charged to the Patent Office. This time amounts to 204 days. As indicated on the PAIR Patent Term Adjustment History...the Patent Office was charged 206 days, which is the time from the date of the

> Advisory Action (July 21, 2008) to the Panel Decision, rather than from the mailing date of the Advisory Action (July 23, 2008) to the Panel Decision. 204 days, rather than 206 days, should have been charged to the Patent Office.

Excerpt taken from "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705", filed March 31, 2010, p. 2.

A review of the file history reveals that a period of adjustment of 206 days to the patent term was entered pursuant 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(3) after prosecution was reopened pursuant to a Notice of Panel Decision from Pre-Appeal Brief Review mailed February 11, 2009. The record reveals that an amendment after final rejection was filed May 22, 2008. Thereafter, as applicants state, the USPTO responded by mailing an Advisory Action on July 23, 2008. The mailing date of the Advisory Action is not dispositive in this instance. Rather, the record reveals that prosecution was reopened pursuant to a Notice of Panel Decision from Pre-Appeal Brief Review mailed February 11, 2009, and that a final rejection was then mailed on April 16, 2009. Accordingly, the calculation of the adjustment to the patent term pursuant to 37 CFR 1.703(a)(3) is 206 days and began on the day after the date that is four months after the reply in compliance with 37 CFR 1.113(c) was filed, September 23, 2008, ending on the date of the mailing of an action under 36 U.S.C. 132, April 16, 2009. Accordingly, no changes to the initial patent term adjustment will be made.

It is noted that applicant has not presented any other issue that would be properly treated under 37 CFR 1.705(b).

In view thereof, the petition is DISMISSED.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years

to issue the patent (to the extent that the three-year period does not overlap with periods already accorded[1]).

The application file is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

[1] See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR ' 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7171703
Issue Date: February 6,2007
Application No. 10267464
Filed: October 9,2002
Attorney Docket No. T9039.CON.CIP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 18,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 18,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,171,703	2007-02-06	10/267,464	2002-10-09	T9039.CON.CIP

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/krc/	Date (YYYY-MM-DD)	2011-04-18
Name	Karl R. Cannon	Registration Number	36468

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/11/2010

TO SPE OF : ART UNIT 2684 (2600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/267,552 Patent No.: 7,020,458

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White. LIE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☒ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Do not enter the amendment to claim 31, it would make it depend from itself.
Note that claim 33 should be amended to depend from claim 31 to provide antecedent basis for the display.
Phil Sobutka

SPE /Temesghen Ghebretinsae/ **ART UNIT** 2618

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

MAILED

FEB 15 2011

OFFICE OF PETITIONS

Kinney & Lange, P.A.
The Kinney & Lange Building
312 South Third Street
Minneapolis, Minnesota 55415-1002

In re Patent No. 6,768,176	:	
Issue Date: 27 July 2004	:	ON PETITION
Application No. 10/267,604	:	
Filed: 9 October 2002	:	
Atty. Docket No.: P440.12-0003	:	

This is a decision on the petition under 37 CFR 1.378(c), filed 29 March 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on 28 July 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mailing date of this decision.

General inquiries relating to the decision should be directed to Robert DeWitty (571-272-6051).

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

W. R. GRACE & CO.-CONN
ATTENTION: PATENT DEPARTMENT
62 WHITTMORE AVENUE
CAMBRIDGE MA 02140

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of :
Ou, et al. :
Application No. 10/267,631 : ON PETITION
Filed: July 8, 2002 :
Attorney Docket No. L3695-02 :
For: AIR MANAGEMENT IN CEMENTITIOUS MIXTURES HAVING PLASTICIZER AND A CLAY-ACTIVITY MODIFYING AGENT

This is a decision on the correspondence entitled REQUEST FOR RECONSIDERATION, filed July 14, 2005, which will be treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

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

The Office contended that the above-identified application became abandoned for failure to properly reply to the November 4, 2004 non-final Office action, which set a three (3) month extendable period for reply. Applicants filed a terminal disclaimer on November 19, 2004. A Notice of Abandonment was mailed on June 8, 2005.

Petitioners argue that their November 19, 2004 filing was a full and complete response to the November 4, 2004 non-final Office action.

Generally, more than a terminal disclaimer has to be filed, such that the filing indicates that the terminal disclaimer is in response to the double patenting rejection (overcomes the rejection, etc.). However, here such an indication was given in the cover letter.

The petition is **granted,** the holding of abandonment is withdrawn, and the June 8, 2005 Notice of Abandonment is **vacated**.

After the mailing of this decision, the application will be returned to Technology Center G.A.U. 1731 for consideration of the reply filed on November 19, 2004.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : December 24, 2011

Patent No. :6874702
Ser. No. :10267632
Inventor(s) : Clifford W. Turnbull
Issued :April 5, 2005
Title :MODULAR SPRAY GUN APPARATUS AND METHODS
:

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. the processing fee set forth in 37 CFR 1. 17(i) (currently $130);
B. **a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

	Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer) Support 1-866-217-9197 571-272-4100

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at 571-272-9005.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9805

DORSEY & WHITNEY LLP
701 FIFTH AVENUE, SUITE 6100
SEATTLE, WASHINGTON 98104-7043

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RANDY J. PRITZKER
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,084,869 :
Issued: August 1, 2006 :
Application No. 10/267,907 : ON PETITION
Filed: October 9, 2002 :
Attorney Docket No. M00635.70078.US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 10, 2011.

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

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

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

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

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Daniel O'Brien
Massachusetts Institute of Technology
Technology Licensing Office
Five Cambridge Center, Kendall Square
Cambridge, Massachusetts 02142-1493

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MAILED
MAR 16 2012
OFFICE OF PETITIONS

STEPTOE & JOHNSON LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

In re Application of :
SNODDY, et al :
Application No. 10/267,919 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. 83355.0003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 27, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 19, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 20, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860; and (3) a statement of unintentional delay have been received.

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

This application is being referred to Technology Center AU 2442 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn
Diane Goodwyn
Petitions Examiner
Office of Petitions

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SEP 08 2010

OFFICE OF PETITIONS

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

In re Application of :
Jason Abt et al. :
Application No. 10/267,994 : NOTICE
Patent No. 6,907,583 :
Filed: October 10, 2002 :
Attorney Docket No. SHA016 A303

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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APR 21 2011

OFFICE OF PETITIONS

HOGAN LOVELLS US LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

In re Patent No. 7,106,826	:	
Issue Date: September 12, 2006	:	
Application No. 10/268,678	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 86581.0001	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 11, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 13, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: William F. Nixon
P.O. Box 7637
Falls Church, VA 22040

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/268,886	10/11/2002	Denis Babin	06-818	4167

7590 09/17/2010

Mold-Masters Limited
233 Armstrong Avenue
Georgetown, ON L7G 4X5
CANADA

EXAMINER	
HEITBRINK, TIMOTHY W	
ART UNIT	PAPER NUMBER
1722	

MAIL DATE	DELIVERY MODE
09/17/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 17 2010

In re Patent No. BABIN ET AL.	:	
Issue Date: 8/3/04	:	**DECISION GRANTING**
Appl No.: 10/268,886	:	**PETITION**
Filed: October 11, 2002	:	*37 CFR 1.324*
For: INJECTION NOZZLE SYSTEM FOR AN INJECTION MOLDING MACHINE	:	

This is a decision on the petition filed 5/31/07 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Gregory L Mills/
Supervisory Patent Examiner, Art Unit 1700
Art Unit 1700
Technology Center 1700

Mold-Masters Limited
233 Armstrong Avenue
Georgetown, CANADA L7G 4X5

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United States Patent and Trademark Office
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MAILED

MAY 25 2011

OFFICE OF PETITIONS

MUNCY, GEISSLER, OLDE & LOWE, PLLC
4000 LEGATO ROAD, SUITE 310
FAIRFAX VA 22033

In re Patent No. 7,596,553 :
Issue Date: September 29, 2009 :
Application No. 10/269,742 : DECISION ON PETITION
Filed: October 11, 2002 :
Attorney Docket No. 502025-A-01-US (BEISER) :

This is a decision on the Request For Certificate Of Correction, filed August 31, 2009, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Avaya Inc., Basking Ridge, NJ"

to:

--Avaya Communication Israel Ltd., Tel Aviv, Israel--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,596,553.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

MAILED

AUG 17 2010

OFFICE OF PETITIONS

Patent No. 6,982,089 :
Issued: January 3, 2006 :
Application No. 10/269,745 : DECISION GRANTING PETITION
Filed: October 9, 2002 : UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. TACT0020U-US : REQUEST FOR CERTIFICATE

This is a decision on the petition, filed June 21, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to prior-filed nonprovisional applications, by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional applications was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 9, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim as due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

On July 27, 2010 a Certificate of Correction was issued.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/269,745	10/09/2002	1615	2297	TACT0020U-US	59	36

CONFIRMATION NO. 5690

CORRECTED FILING RECEIPT

31518
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

Date Mailed: 08/17/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Edward Lewis Tobinick, Los Angeles, CA;

Power of Attorney: The patent practitioners associated with Customer Number 31518

Domestic Priority data as claimed by applicant

This application is a CIP of 10/236,097 09/06/2002 ABN
which is a CIP of 09/841,844 04/25/2001 PAT 6,537,549
which is a CIP of 09/826,976 04/05/2001 PAT 6,419,944
which is a CIP of 09/563,651 05/02/2000 PAT 6,471,961
and is a CIP of 09/666,068 12/11/2000 PAT 6,379,666
which is a DIV of 09/476,643 12/31/1999 PAT 6,177,077
which is a CIP of 09/275,070 03/23/1999 PAT 6,015,557
which is a CIP of 09/256,388 02/24/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/29/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/269,745**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

CYTOKINE ANTAGONISTS FOR NEUROLOGICAL AND NEUROPSYCHIATRIC DISORDERS

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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In re Patent No. 7072658
Issue Date: July 4,2006
Application No. 10269815
Filed: October 12,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7072658	2006-07-04	10/269,815	2002-10-12	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Franklin Zhigang Zhang/	Date (YYYY-MM-DD)	2010-08-16
Name	Franklin Zhigang Zhang		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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GOFF PATENT LAW PLLC
1387 SNOW HILL LANE
SAINT GEORGE UT 84770

MAILED
DEC 14 2011
OFFICE OF PETITIONS

In re Patent No. 6,770,250 :
Issued: August 3, 2004 :
Application No. 10,269,816 : NOTICE
Filed: October 11, 2002 :
Attorney Docket No. 0013-00022-02 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 14, 2011.

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

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

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

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

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

It is noted that the request for Revocation of Power of Attorney filed June 30, 2009 was submitted without an appointment of power of attorney and change of correspondence address.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 28 2011
OFFICE OF PETITIONS

Beyer Law Group LLP
P.O. BOX 1687
Cupertino CA 95015-1687

In re Application of :
Ishidoshiro :
Application No. 10/269,824 : NOTICE
Filed: October 11, 2002 :
Attorney Docket No. MES1P071 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 12, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 30 2012

OFFICE OF PETITIONS

MUNCY GEISSLER OLDE & LOWE PLLC
4000 LEGATO ROAD, SUITE 310
FAIRFAX VA 22033

In re Application of :
Mark J. Bearden et al :
Application No. 10/270,011 : DECISION ON PETITION
Filed: October 15, 2002 : TO WITHDRAW
Attorney Docket No.: 3655/0142PUS1 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 3, 2012.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Scott T. Wakeman on behalf of the practitioners of record associated with Customer Number 47827.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since a current correspondence address was not provided.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Application of :
Eric Benazzi et al. :
Application No. 10/270,075 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. PET-2030 :

This is a decision on the petition filed December 22, 2011 under 37 CFR 1.181 to withdraw the holding of abandonment.

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

A decision was rendered by the Board of Patent Appeals and Interferences on October 27, 2011. A Notice of Abandonment was mailed December 7, 2011 citing abandonment in view of the decision by the Board of Patent Appeals and Interference rendered on December 27, 2011 and because the period for seeking court review of the decision had expired, thus there were no allowed claims.

Petitioner argues that the period for response had not yet lapsed as the response for seeking court review is two months from the date of the decision.

A review of the file reveals that petitioner is correct, the decision was rendered October 27, 2011 and the Notice of Abandonment mailed December 7, 2011 was mailed prematurely in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1772 for treatment of the Request for Rehearing filed December 22, 2011.

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

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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AUG 2 6 2010

OFFICE OF PETITIONS

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington DC 20036

In re Application of :
Ulf Palmblad et al. :
Application No. 10/270,163 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. TPP 31467 :

This is a decision on the "Combined Petition to Review TC 1700 Director's Decision On Petetion [sic] To Withdraw Erroneous Holding of Abandonment or in the Alternative Petition to Revive an Unintentionally Abandoned Application" filed December 31, 2008, which is being treated as a petition under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 1700 (Technology Center Director), dated October 31, 2008, which refused to withdraw the holding of abandonment mailed April 11, 2007. Additionally and in the alternative, the petition requests the application be revived as unintentionally abandoned under 37 USC 1.137(b).

The petition under 37 CFR 1.181(a)(3), to overturn the decision of the Technology Center Director dated October 31, 2008, is **DENIED.**

The petition to revive an application unintentionally abandoned under 37 CFR 1.137(b) is **GRANTED**.

As to the petition under 37 CFR 1.181(a)(3):

BACKGROUND

A final Office action was mailed May 25, 2006.

An appeal brief was filed October 23, 2006 and in response thereto a Notification of Non-Compliant Appeal Brief was mailed December 12, 2006.

A supplemental appeal brief was filed January 9, 2007 and in response thereto a Communication Re: Appeal was mailed April 11, 2007. This communication included a notification that the application was abandoned.

A petition to Withdraw the Holding of Abandonment and in the alternative a Petition to Exercise Supervisory Authority under 37 CFR 1.181 was filed May 2, 2007. The petition was denied in a decision mailed June 14, 2007.

A renewed petition to Withdraw the Holding of Abandonment and in the alternative a petition to Revive an Unintentionally Abandoned Application was filed July 13, 2007. The renewed petition to withdraw the holding of abandonment was denied and the petition for revival of an unintentionally abandoned application was referred to the Office of Petitions in a decision mailed October 31, 2008.

The instant petition was filed December 31, 2008.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

37 CFR 41.37(d) states:

> (d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

MPEP § 1205.03 states in part:

> The Office may use the form paragraphs set forth below or form PTOL-462, "Notification of Non-Compliant Appeal Brief (37 CFR 41.37)" to notify appellant that the appeal brief is defective. The appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified.

MPEP § 1215.04 states in part:

An appeal will also be dismissed if an applicant fails to timely and fully reply to a notice of noncompliance with 37 CFR 41.37(d). See MPEP § 1205.03 and 37 CFR 41.37(d). As in examples (B)-(C) above, if no allowed claims remain in an application, the application is abandoned as of the date the reply to the notice was due. The applicant may petition to revive the application as in other cases of abandonment, and to reinstate the appeal.

OPINION

Petitioners seek reversal of the Technology Center Director's decision of October 31, 2008, on the grounds that the decision is inconsistent with patent statutes and her interpretation of patent rules.

The Technology Center Director's decision correctly takes the position that the dismissal of the appeal and resulting abandonment of the application was proper due to petitioners' failure to provide a compliant appeal brief. A first appeal brief was filed October 23, 2006. The brief was determined to be non-compliant and resulted in the mailing of a Notification of Non-Compliant Appeal Brief on December 12, 2006. Petitioners responded with a supplemental appeal brief on January 9, 2007. The supplemental appeal brief was determined to be non-compliant as it did not overcome all the deficiencies in the brief noted in the Notification of Non-Compliant Appeal Brief. As a result, the appeal was dismissed and the application held abandoned as noted in the Communication Re: Appeal.

Petitioners argue that the application should not have been held abandoned and that there was extendable time remaining to file a second supplemental brief. The first petition filed May 2, 2007 did include a second supplemental appeal brief and a four month extension of time. Since the application was held abandoned after the submission of the first supplemental brief, the second supplemental appeal brief was not considered. Through all the petitions of record, petitioner has continuously argued that there was time remaining to file a second supplemental brief, which was submitted, and that petitioner should be allowed to file any number of supplemental briefs as long as he submitted them within the extendable time with proper extensions of time submitted.

The Technology Center Director takes the position that since the supplemental appeal brief, filed January 9, 2007 did not overcome all the reasons for non-compliance of the original appeal brief, the appeal was properly dismissed in accordance with 37 CFR 41.37(d). The fact pattern of this application falls completely within the rule as set forth in 37 CFR 41.37(d). Further, MPEP 1215.04 clearly establishes that if the response to the notice of non-compliance fails to fully reply to the notice then the application is abandoned. The notice was mailed December 12, 2006 and gave a response time of one month or 30 days, whichever is longer. Petitioners filed the supplemental brief

timely on January 9, 2007. Since the supplemental brief did not correct all the deficiencies set forth in the notice, the application became abandoned on January 13, 2007. Any submissions of second or subsequent supplemental appeal briefs would be untimely as the application became abandoned after the first supplemental brief was filed. Once an application becomes abandoned, requests for extensions of time have no effect. Petitioners argue that the Technology Center Director's decision was based on a "strained reading" of 37 CFR 41.37(d). However, it is clear the decision was based on the only possible reading of that rule and the MPEP. "The amended brief" must overcome all reasons for non-compliance stated in the notice of non-compliance and if this is not done the appeal is dismissed. There is no suggestion or implication that any number of supplemental briefs can be filed in an extended period in an effort to overcome the non-compliance issues. "The" amended brief can only be a first amended brief. The rule can only be interpreted to mean that an applicant has only one opportunity to correct all the deficiencies noted in the appeal brief as initially filed.

Petitioners argue that other Technology Centers follow a policy of allowing supplementary appeal briefs within the extended time and provides as evidence a copy of a form PTOL-462(Rev. 7-05), Notification of Non-Compliant Appeal Brief (37 CFR 41.37). This form has been altered and has unauthorized language in the first major paragraph as noted by the Technology Center Director in her decision of October 31, 2008. Further, the form has been redacted of all identifying information making it impossible to review the facts and circumstances of this application. In any event, that other Technology Centers have disregarded the provisions of 37 CFR 41.37(d) in other applications in regard to supplemental appeal briefs is of no moment. As stated by the Federal Circuit,

> The fact that, whether because of administrative error or otherwise, some marks have been registered even though they may be in violation of the governing statutory standard does not mean that the agency must forgo applying that standard in all other cases In re Boulevard Entertainment, Inc., 67 USPQ2d 1475 (Fed Cir 2003) citing Int'l Flavers & Fragrances, 51 USPQ2d 1513 (Fed Cir. 1999).

Being as generous as possible, petitioners' evidence is that some examiner has not followed Office procedure in one instance. This is not grounds for the USPTO to discontinue our established practice.

For the reasons set forth above, the Technology Center Director's decisions to refuse petitioner's request to revive the application is not shown to be in error.

DECISION

A review of the record indicates that the Technology Center Director did not abuse her discretion or act in an arbitrary and capricious manner in the petition decision of October 31, 2008. The record establishes that the Technology Center Director had a reasonable basis to support her findings and conclusion.

The petition is granted to the extent that the decision of the Technology Center Director of October 31, 2008 has been reviewed, but is denied with respect to making any change therein. As such, the decision of October 31, 2008 will not be disturbed. The petition is **denied**.

As to the petition under 37 CFR 1.137(b):

This petition is **Granted**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an acceptable supplemental appeal brief; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center Art Unit 1733 for consideration of the supplemental appeal brief filed concurrent with this petition in due course.

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

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 30 2012

OFFICE OF PETITIONS

MUNCY GEISSLER OLDE & LOWE PLLC
4000 LEGATO ROAD, SUITE 310
FAIRFAX VA 22033

In re Application of :
Mark J. Bearden et al :
Application No. 10/270,335 : DECISION ON PETITION
Filed: October 15, 2002 : TO WITHDRAW
Attorney Docket No.: 3655/0182PUS1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 3, 2012.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Scott T. Wakeman on behalf of the practitioners of record associated with Customer Number 47827.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since a current correspondence address was not provided.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KONRAD RAYNES & VICTOR, LLP
315 S. BEVERLY DRIVE
#210
BEVERLY HILLS, CA 90212

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OCT 07 2010

OFFICE OF PETITIONS

In re Application of :
Yoram **FISHMAN** :
Application No. 10/271,380 : DECISION ON PETITION
Filed: October 15, 2002 :
Attorney 10.20 :

This is a decision on the petition, filed October 1, 2010, under 37 CFR 1.59(b), requesting the expungement of documents. The petition will be treated under 37 CFR 1.181(a) requesting removal of unrelated documents.

The petition is **GRANTED**.

Petitioner request that the paper submitted August 6, 2007, be deleted since they were submitted by a party who is not the inventor, assignee, or attorney in the instant application. Petitioner indicates that this document is not related in any way to Application Serial No. 10/271,380.

A review of the file indicates the communication is not related to this application. An attorney of record has requested the documents be expunged. The information in question has been determined by the examiner Humera Sheikh to not be material to the examination of the instant application. The petition is granted.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Publicly available Documents." It is agreed that it would be appropriate in this instance to close the information filed August 6, 2007 in application serial no. 10/271,380 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

The application is being forwarded to Technology Center Art Unit 1615 for action in its regular turn.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JAN 19 2011

OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Patent No. 7,572,885	:	
DeBacker et al.	:	DECISION FOR REQUEST
Issue Date : August 11, 2009	:	FOR RECONSIDERATION
Application No. 10/271,617	:	OF PATENT TERM
Filed: October 16, 2002	:	ADJUSTMENT
Attorney Docket No. LUD 5558.1DIV	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment," filed May 14, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from four hundred and eighty-seven (487) days to one thousand, three hundred and ninety-five (1,395) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentees are given ONE (1) MONTH from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On August 11, 2009, the above-identified application matured into U.S. Patent No. 7,572,885, with a revised patent term of 487 days. The request for reconsideration filed on February 2, 2010, was timely filed within two months of the date the patent issued, and resulted in a recalculated patent term of 930 days. The instant request for reconsideration filed May 14, 2010, was timely filed within one month of the date the petition recalculation decision was mailed. Patentees assert that an additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

It is noted that the instant patent issued 3 years and 1,395 days after its filing date. However, § 1.703(b)(1) provides, in pertinent part, that:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) . . . and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C.

132(b) was filed and ending on the date the patent was issued.

Thus, the filing of a request for continued Examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. In this instance, an RCE was filed on April 3, 2007. Thus, the ability to accumulate any additional patent term adjustment against the three-year pendency provision ended April 2, 2007. Applicant is not entitled to any additional patent term adjustment because the RCE was filed before the expiration of the three-year pendency of the application.

It is further noted that patentees failed to account for the filing of the notice of appeal on January 3, 2007. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 90 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, January 3, 2007, and ending on the day before the Request for Continued Examination was filed, April 2, 2007. Thus, the B delay is 443 days (533 – 90). Accordingly, the patent term adjustment is 930 days (300 days of A delay + 443 days of B delay – 0 days of overlap - 300 days of applicant delay).
In view thereof, the patent term adjustment of 930 days indicated in the patent is correct.

Deposit account 50-0624 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 23, 2011

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/271644 , Patent No.: 8069653 B2

CofC mailroom date: 1-11-12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Kenneth Bomberg/ **3748**
SPE **Art Unit**

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6853287	2005-02-08	10272103	2002-10-15	42390P12296D

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-29
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6853287
Issue Date: February 8,2005
Application No. 10272103
Filed: October 15,2002
Attorney Docket No. 42390P12296D

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/272,167	10/16/2002	Bruce A. Littlefield	04520/029001	1327

78859 7590 12/22/2011

Clark & Elbing LLP / Eisai
101 Federal Street
Suite 1500
Boston, MA 02110

EXAMINER	
OWENS, AMELIA A	

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
12/22/2011	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. 6,653,341
Issue Date: November 25, 2003
Appl No.: 10/272,167
Filed: October 16, 2002
For: METHODS AND COMPOSITIONS FOR USE IN TREATING CANCER

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed August 4, 2011 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Andrew D. Kosar
Supervisory Patent Examiner
Art Unit 1622
Technology Center 1600

J. COOPER MCDONALD
CLARK & ELBING, LLP
101 FEDERAL STREET
BOSTON MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: December 13, 2011
TO: Certificates of Correction Branch
FROM: Andrew D. Kosar
SPE, Art Unit 1622
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,653,341 as specified on the attached Certificate.

Andrew D. Kosar, Supervisory Patent Examiner
Art Unit 1622

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,653,341
Patented: November 25, 2003

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Bruce A. Littlefield, Boris M. Seletsky, Murray J. Towle, Melvin J. Yu, and Wanjun Zheng

Andrew D. Kosar
Supervisory Patent Examiner
Art Unit 1622

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Patent No. 6,656,207 :
Issue Date: December 2, 2003 :
Application No. 10/272,508 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. A-64024-7/ENB :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed June 8, 2011.

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

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

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

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

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/272,896	10/17/2002	Lou Montulli	NETS0017D1-RE	1833

22862 7590 01/31/2011
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

EXAMINER	
HARRELL, ROBERT B	
ART UNIT	**PAPER NUMBER**
2442	

NOTIFICATION DATE	DELIVERY MODE
01/31/2011	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eptomatters@glenn-law.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

JAN 28 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of: Lou MONTULLI
Application No. 10/272,896
Filed: Oct 17, 2002
Docket No. NETS0017D1-RE
Title: METHOD AND APPARATUS FOR MAINTAINING STATE INFORMATION ON AN HTTP CLIENT SYSTEM IN RELATION TO SERVER DOMAIN AND PATH ATTRIBUTES

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on Nov 23, 2010, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that all documents and publication filed under seal and identified in the Form PTO/SB/08 filed concurrently with the petition to be expunged from the record if not found to be material to patentability to the invention claimed in the instant application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on Nov 23, 2010 is considered to be "material." *Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information.* No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be removed from the official file.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Beatriz Prieto, Quality Assurance Specialist, can be reached at (571) 272-3902.

/Kim Huynh/

Kim Huynh,
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Information Security

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Chen, et al.	:	
Application No. 10/272,983	:	ON REQUEST FOR
Filed: October 17, 2002	:	RECONSIDERATION OF
Attorney Docket Number: 105575-0002-102	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 20, 2011. Applicants believes that the correct total PTA to date is not six hundred twenty-seven (627) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment, but rather two thousand one hundred seven (2107) days.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Applicants also argue that they were erroneously assessed 1409 days of Applicant delay pursuant to 37 CFR 1.704(c)(8). Applicants assert that they should not have been assessed any days of Applicant delay, in accordance with 37 CFR 1.704(c)(9). As pointed out by Applicants, they filed an Amendment in response to a March 27, 2006 Office action on July 31, 2006, and were properly assessed 34 days of delay pursuant to 37 CFR 1.704(b). Following this response, an interference was declared on March 19, 2007, and the Office mailed a decision on the interference by the Board of Patent Appeals and Interferences on June 26, 2007. Applicants filed an IDS on June 9, 2010, and were assessed 1409 days of delay under 37 CFR 1.704(c)(8) for being a supplemental response to their July 31, 2006 Amendment. Applicants argue that since the IDS was filed after the Board decision, and more than one month prior to the Office mailing an Office action or Notice of Allowance, they should not have been assessed any days of delay in accordance with 37 CFR 1.704(c)(9). Applicants' argument has been considered, and found to be persuasive. As such, zero (0) days of Applicant delay should have been assessed for the June 9, 2010 IDS.

However, Applicants should have been assessed additional days of Applicant delay for filing a supplemental response to the July 31, 2006 Amendment. A review of the file reveals that subsequent to their July 31, 2006 Amendment, Applicants filed a supplemental response on October 12, 2006. As such, seventy-three (73) days of Applicant delay should have been assessed for this filing under 37 CFR 1.704(c)(8).

In view of the above, the corrected determination of Patent Term Adjustment at the time of the mailing of the Notice of Allowance is **one thousand nine hundred sixty-three (1963) days** (1896 days of "A" delay plus 264 days of "C" delay, reduced by 197 (90+34+73) days of applicant delay).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment is acknowledged.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d).

The application is being referred to the Office of Data Management for issuance of the patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 08 2011

OFFICE OF PETITIONS

NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 7,032,279 :
Issue Date: 04/25/2006 :
Application No. 10/273,345 : DECISION ON PETITION
Filed: 10/18/2002 :
Attorney Docket No. 839-1329 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 16, 2011, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued April 25, 2006. The grace period for paying the maintenance fee expired on April 26, 2010. This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The $1,130.00 maintenance fee due at 3.5 years and the $1,640.00 surcharge after expiration where late payment is unintentional will be charged to the Deposit Account as authorized.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 28, 2010

TO SPE OF : ART UNIT 2462 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/273,626 Patent No.: 7,466,720 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes in the claims be approved?
See COCIN dated 10-06-2010

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: APPROVED/ALL CHANGES APPLY

_____ **SPE: /Seema S. Rao/** _____ **Art Unit: 2462** _____

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUL 20 2011
OFFICE OF PETITIONS

J. E. MCTAGGART
1860 EASTMAN AVENUE
SUITE 105
VENTURA, CA 93003

In re Patent No. 7,108,394 :
Issue Date: September 19, 2006 :
Application No. 10/273,635 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. 1379 :

This is a decision on the petition under 37 CFR 1.378(c), filed June 22, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 19, 2010 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM BOJAN
2407 EVEREST PARKWAY
CAPE CORAL FL 33904

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Patent No. 6,701,079
Issue Date: March 2, 2004
Application No. 10/273,698
Filed: October 18, 2002
Patentee: William Bojan

DECISION ON PETITION

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))", filed October 28, 2010.

The petition under 37 CFR 1.378(c) is **DISMISSED**.

The above-identified patent issued March 2, 2004. Accordingly, the first maintenance fee could have been paid during the period from March 2, 2007 through September 2, 2007 without surcharge, or with a surcharge of $65 during the period from September 3, 2007 through March 2, 2008. The patent expired on March 3, 2008.

The twenty-four month deadline for filing a petition to reinstate under 37 CFR 1.378(c) ended on March 2, 2010. Accordingly, petitioner can not reinstate the above expired patent pursuant to 37 CFR 1.378(c). Petitioner's only available remedy is to file a petition to accept the unavoidably delayed payment of the maintenance fee pursuant to 37 CFR 1.378(b).

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

(1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g);

(2) The surcharge set forth in 37 CFR 1.20(i)(1); and

(3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

It is noted that this is a very stringent standard.

Lastly, petitioner stated that he was enclosing the $2030 for the instant petition under 37 CFR 1.378(c) and maintenance fee. The Office does not have any record of having received these fees.

Further correspondence should be addressed as follows:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/65 (4 pages)
Privacy Act Statement (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM BOJAN
2407 EVEREST PARKWAY
CAPE CORAL FL 33904

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Patent No. 6,701,079
Issue Date: March 2, 2004
Application No. 10/273,698
Filed: October 18, 2002
Patentee: William Bojan

DECISION ON PETITION

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))", filed February 8, 2011.

The petition under 37 CFR 1.378(c) is **DISMISSED**.

The above-identified patent issued March 2, 2004. Accordingly, the first maintenance fee could have been paid during the period from March 2, 2007 through September 2, 2007 without surcharge, or with a surcharge of $65 during the period from September 3, 2007 through March 2, 2008. The patent expired on March 3, 2008.

The twenty-four month deadline for filing a petition to reinstate under 37 CFR 1.378(c) ended on March 2, 2010. **Accordingly, petitioner can not reinstate the above expired patent pursuant to 37 CFR 1.378(c).** Petitioner's only available remedy is to file a petition to accept the unavoidably delayed payment of the maintenance fee pursuant to 37 CFR 1.378(b).

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

> (1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g); (currently $490)
>
> (2) The surcharge set forth in 37 CFR 1.20(i)(1) (currently $700); and
>
> (3) A **showing that the delay was unavoidable** since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

It is noted that this is a very stringent standard.

Receipt of the $2,030 submitted with the instant petition is acknowledged. These fees can be applied towards a petition under 37 CFR 1.378(b) if such a petition is filed (in which case the difference will be refunded to petitioner). If petitioner does not desire to file a petition under 37 CFR 1.378(b), petitioner can seek a refund of the $2,030 by sending a written request to "Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450". A copy of this decision should be submitted with the refund request.

A copy of a petition to accept the unavoidably delayed payment of the maintenance fee is enclosed for petitioner's convenience.

If petitioner desires to file a petition to accept the unavoidably delayed payment of the maintenance fee under 37 CFR 1.378(b), such petition should be addressed as follows:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/65 (4 pages)
Privacy Act Statement (1 page)

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WILLIAM BOJAN
2407 EVEREST PARKWAY
CAPE CORAL FL 33904

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Patent No. 6,701,079
Issue Date: March 2, 2004
Application No. 10/273,698
Filed: October 18, 2002
Patentee: William Bojan

DECISION ON PETITION

This is a decision on the letter filed April 14, 2011, which is being treated as a petition to accept the unavoidably delayed payment of the maintenance fee under 37 CFR 1.378(b).

The petition under 37 CFR 1.378(b) is **DISMISSED**.

The above-identified patent issued March 2, 2004. Accordingly, the first maintenance fee could have been paid during the period from March 2, 2007 through September 2, 2007 without surcharge, or with a late payment surcharge of $65 during the period from September 3, 2007 through March 2, 2008. No maintenance fee having been received, the patent expired on March 3, 2008.

Evidence Presented on Petition:

Petitioner states that he received a letter from a company called the "United States Patent Renewal Service", advising petitioner that his patent had entered the third year of registration. The letter informed petitioner that for a payment of $175, he could receive documents to pay the maintenance fee on time to avoid any late payment surcharge. The bottom of the letter advises that this service has not been approved or endorsed by the federal government. Petitioner states that he payed the "United States Patent Renewal Service" on April 25, 2007.

Relevant Statutes, Rules and Regulations:

35 U.S.C. § 41(c)(1) states that:

> The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

37 C.F.R. § 1.378(b) provides that:

> Any petition to accept an unavoidably delayed payment of a maintenance fee must include:
>
> (1) The required maintenance fee set forth in §1.20(e) through (g);
>
> (2) The surcharge set forth in §1.20(i)(1); and
>
> (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Opinion:

§ 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay. See id.; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Delay resulting from petitioner's lack of receipt of any maintenance fee reminder(s), or petitioner's being unaware of the need for maintenance fee payments, does not constitute "unavoidable" delay.[1] Under the statutes and regulations, the Office has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee

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[1] See In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)), aff'd, Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd, 937 F.2d 623 (Fed. Cir. 1991)(table), cert. denied, 502 U.S. 1075 (1992). See also "Final Rules for Patent Maintenance Fees," 49 Fed. Reg. 34716, 34722-23 (Aug. 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

is due. While the Office mails maintenance fee reminders strictly as a courtesy, it is **solely the responsibility of the patentee to ensure that the maintenance fee is timely paid to prevent expiration of the patent.** The failure to receive the reminder does not relieve the patentee of the obligation to timely pay the maintenance fee, nor will it constitute unavoidable delay if the patentee seeks reinstatement under the regulation.[2] Moreover, a patentee who is required by 35 USC 41(c)(1) to pay a maintenance fee is not entitled to any notice beyond that provided by publication of the statute.[3]

Furthermore, the Letters Patent contains a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While the record is unclear if petitioner ever read the Notice, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.[4] The mere publication of the statute was sufficient notice to petitioner.

Lastly, petitioner has not shown that he had a system in place to track and monitor the payment of his maintenance fee. Nor has petitioner explained how or when he became aware of the expiration. For the above reasons, the petition must be dismissed.

Conclusion:

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Anysuch petition for reconsideration must be accompanied by the $400 petition fee set forth in § 1.17(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Private information that petitioner does not wish to have made of public record should be redacted.

---

[2] Rydeen, 748 F. Supp at 905.

[3] Id. at 906.

[4] See Ray v. Lehman, 55 F. 3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1995).

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee and the surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. The $400 fee for reconsideration set forth in § 1.17(f) is not subject to refund. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria VA 22313-1450). A copy of the last decision rendered should accompany the request for refund).

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

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

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

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM BOJAN
2407 EVEREST PARKWAY
CAPE CORAL FL 33904

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Patent No. 6,701,079
Issue Date: March 2, 2004
Application No. 10/273,698
Filed: October 18, 2002
Patentee: William Bojan

DECISION ON PETITION

This is a decision on the letter filed May 27, 2011, requesting that the previously paid maintenance fee and late surcharge be refunded.

The request is **GRANTED**.

The $2,030 submitted on February 8, 2011 will be refunded to patentee in due course under separate cover.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: CISCP301/200054	
Application Number: 10/273,705	Filing Date (or 371(b) or (f) Date): October 17, 2002
Patent Number: 7,668,174	Issue Date: February 23, 2010
First Named Inventor: Alpesh Patel	
Title: Methods & Apparatus for Home Address Management at Home Agent for NAI Based Mobile	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 08/16/2010

Applicant	: Alpesh Patel	: DECISION ON REQUEST FOR
Patent Number	: 7668174	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/273,705	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1491** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 07 2010

OFFICE OF PETITIONS

Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York NY 10018

In re Patent No. 7,073,096 :
Issue Date: July 4, 2006 :
Application No. 10/273,884 : ON PETITION
Filed: October 18, 2002 :
Attorney Docket No. 218.1035US :

This is a decision on the petition under 37 CFR 1.378(c), filed August 2, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 4, 2010 for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3213.

The patent file is being forwarded to Files Repository.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,187,794	2007-03-06	10/273,927	2002-10-18	8009-14

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Frank Chau/	Date (YYYY-MM-DD)	2011-09-23
Name	Frank Chau	Registration Number	34136

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 7187794
Issue Date: March 6,2007
Application No. 10273927
Filed: October 18,2002
Attorney Docket No. 8009-14 (R-7519)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7103960
Issue Date: September 12,2006
Application No. 10273996
Filed: October 21,2002
Attorney Docket No. P06761US01/RFH

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 28,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 28,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,103,960	2006-09-12	10/273,996	2002-10-21	P067611US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Douglas E. Jackson/	Date (YYYY-MM-DD)	2011-03-21
Name	Douglas E. Jackson	Registration Number	28518

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7020611
Issue Date: March 28,2006
Application No. 10274685
Filed: October 21,2002
Attorney Docket No. AMERITRADE 1-CON

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 4,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 4,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,020,611	2006-03-28	10/274,685	2002-10-21	AMERITRADE 1-CON

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/David R. Hale/	Date (YYYY-MM-DD)	2011-02-04
Name	David R. Hale		
Enter Reel and Frame Number		Remove	
Reel Number	013875	Frame Number	0112
Enter Reel and Frame Number		Remove	
Reel Number	016696	Frame Number	0918
Enter Reel and Frame Number		Remove	
Reel Number	025671	Frame Number	0887
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7108859
Issue Date: September 19,2006
Application No. 10274931
Filed: October 21,2002
Attorney Docket No. 206200-59

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 27,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 27,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10274979
Filing Date	22-Oct-2002
First Named Inventor	Willem Wielinga
Art Unit	1628
Examiner Name	REI TSANG SHIAO
Attorney Docket Number	Q72351
Title	METHOD FOR MANUFACTURING PURE GUAR MEAL

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Sheldon I. Landsman/
Name	Sheldon I. Landsman
Registration Number	25430

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 21,2011

In re Application of :

Willem Wielinga

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10274979

Filed : 22-Oct-2002

Attorney Docket No : Q72351

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 21,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 1628 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

APR 13 2011

OFFICE OF PETITIONS

In re Application of :
Sharma, et al. :
Application No. 10/275,197 : ON APPLICATION FOR
Filed: March 4, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. **098888-1748** :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed March 7, 2011. Applicants submit that the patent term adjustment to be indicated on the patent is one thousand, six hundred and thirty-eight (1,638) days, not nine hundred and twenty (920) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application; then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on April 24, 2009.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is a requirement of the application for patent term adjustment under 37 CFR 1.705(b) and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Dean F Vance
Kraton Polymers
Intellectual Property
3333 Highway 6 South
Houston TX 77082

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OFFICE OF PETITIONS

In re Application of :
JAMES R. ERICKSON :
Application No. 10/275,353 : DECISION ON PETITION
Filed: 03/05/2003 :
Attorney Docket No. TH-1550 (KPR-1003US) :

This is a decision on the petition under 37 CFR 1.181 (no fee) filed May 25, 2006, to withdraw the holding of abandonment in the above-identified application.

On October 19, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on May 17, 2006.

A review of the record reveals that petitioner filed a timely reply to the nonfinal Office action on January 19, 2006; however, petitioner placed an incorrect application number (10/257,353) on the reply. The reply in the form of an amendment was located in the file of Application No. 10/257,353 and was transferred to the correct application, No. 10/275,353. Therefore, the USPTO received the reply on January 19, 2006, but it was not timely matched with the file due to the incorrect application number.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition is **granted**. The holding of abandonment is hereby withdrawn and the application is restored to pending status.

The matter is being referred to Technology Center Art Unit 1711 for appropriate action on the reply filed January 19, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7018582	2006-03-28	10275367	2003-04-11	15442.0019FPWO

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brian H. Batzli/	Date (YYYY-MM-DD)	2011-03-14
Name	Brian H. Batzli	Registration Number	32960

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7018582
Issue Date: March 28,2006
Application No. 10275367
Filed: April 11,2003
Attorney Docket No. 8436.92USWO

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 14,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 14,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 24 2011

OFFICE OF PETITIONS

COLLARD & ROE PC
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re
Kurth, et al.
Application No. 10/275,626
Filed: November 6, 2002
Patent No. 6,804,936
Issued: October 19, 2004
Attorney Docket No. KURTH 5 PCT

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed September 23, 2011.

The fee deficiency submission under 37 CFR 1.28 of $2005 is hereby accepted.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD L MAYER ESQ
KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

MAILED
DEC 14 2010
OFFICE OF PETITIONS

In re Patent No. 7,590,178
Bergen, et al.
Application No. 10/275,630
Issue Date: September 15, 2009
Filed: November 7, 2002
Attorney Docket No. 11403/3246

: DECISION ON
: REQUEST FOR RECONSIDERATION
: of PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed May 21, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the patent is extended or adjusted by five hundred fifty (550) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty (550) days is **GRANTED to the extent indicated herein.**

Patentees argue that the proper amount of days over 36 months from the filing date of the application until the issue date of the patent was not included in the "B" delay period. Patentees' argument has been considered, but is not persuasive. The over three year period began on September 13, 2006 (3 years after 30 months after the priority date – March 12, 2001) and ended on May 22, 2008 (the day before the RCE filing date), and is 618 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the "B" delay period is 618 days.

Patentees are correct that the number of days of overlap between "A" delay and "B" delay should not be taken into account in the determination of Office delay. However, Applicants ignore the 44 days of overlap that occurred when the Office mailed a final Office action on December 26, 2007, in response to an Appeal Brief filed on July 12, 2007. As such, total overlap is 44 days.

In view thereof, the correct number of days of patent term adjustment is three hundred thirty (330) days (1043 days of PTO delay (425 days of "A" delay (303+66+44+12) and 618 days of "B" delay), reduced by 44 days of overlap, 435 (6+95+92+95+58+89) days of Applicant delay, and 234 days for the time the application was under appeal).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred thirty (330)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,590,178 B2

DATED : **September 15, 2009**

INVENTOR(S) : Bergen et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 505 days.

Delete the phrase "by 505 days" and insert – by 330 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 13, 2011

TO SPE OF : ART UNIT 1741

SUBJECT : Request for Certificate of Correction for Appl. No.: 10275687 Patent No.: 7845194

CofC mailroom date: Oct. 5, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Col. 11, lines 20-21 in claim 17 only.

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

October 14, 2011

Matthew J. Daniels, SPE AU 1741 **Date**

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed :March 4, 2011
Patent No. : 7,662,612 B2
Ser. No. :10/275783
Issued February 16, 2010
Inventor(s) : Kazuhiro Niwa, et. al.
Title : CHEMICAL SENSOR DEVICE

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Howard I. Sobelman,
Snell & Wilmer LLP
One Arizona Center, 400 East Van Buren St
Phoenix, AZ 85004-2202

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

MAILED
MAY 09 2011
OFFICE OF PETITIONS

Patent No. 7,662;612 :
Issue Date: February 16, 2010 :
Application No. 10/275,783 : ON PETITION
Filed: November 8, 2002 :
Attorney Docket No. 29288.8900 :

This is a decision on the petition filed March 14, 2011, under 37 CFR 3.81(b) to correct the assignee name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY, LLP
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED
FEB 29 2012
OFFICE OF PETITIONS

In re Application of	:	
OOTA, et al	:	
Application No. 10/276,423	:	DECISION ON PETITION
Filed: November 15, 2002	:	TO WITHDRAW
Attorney Docket No. 7388/80030	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 2012.

The request is **NOT APPROVED**.

The Request cannot be accepted because Petitioner has not complied with current USPTO requirements as set forth in 37 CFR 10.40. In this regard, the Office requires the practitioner(s) requesting withdrawal to certify that he, she or they have:

(1) given reasonable notice to the client, prior to the expiration of the response period, that practitioner(s) intends to withdraw from employment;

(2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and

(3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40(c).

Petitioner has not complied with item (1) of the above-identified certifications.

Further, the reason indicated is not an acceptable reason under 37 CFR 10.40.

The Office, however, has changed the correspondence address to the address indicated below until otherwise properly notified by the applicant.

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

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

cc: YOSHINORI SHIMIZU
C/O SOEI PATENT AND LAW FIRM
MARUNOUCHI MY PLAZA 9TH FLOOR
1-1 MARUNOUCHI 2-CHOME
CHIYODA-KU, TOKYO
100-0005 JAPAN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/276,641	04/21/2003	Aloke K Dutta	WSUO187PUSA	3347

22045 7590 10/22/2010

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER
POWERS, FIONA

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
10/22/2010	PAPER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101020

DATE : August 27, 2010

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7049337

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Joseph K. McKane/
Supervisory Patent Examiner, Art Unit 1626

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

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of :
Sylvie Dumas, et. al. :
Application No. 10/276,709 : DECISION ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. BJS-3665-37 :

This is a decision on the petition filed May 31, 2010, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed January 31, 2007 be withdrawn The $400 petition fee has been received.

The petition is **granted**.

Petitioners states, "The Terminal Disclaimer filed January 31, 2007 terminally disclaims the present application over Application No. 10/576,587. The identification of Application No. 10/576,587 in the Terminal Disclaimer filed January 31, 2007 was in error."

The undersigned has received a message from the Patent Examiner in Technology Center Art Unit 1634 that the double patenting rejection was made on application 10/276,587 and that Application No. 10/576,587 does not appear to have any related inventors, assignees or subject matter. Accordingly, the terminal disclaimer is hereby withdrawn. USPTO records for the above-identified application have been changed to be consistent with this decision.

Telephone inquiries related to this decision should be addressed to Andrea Smith at (571) 272-3226

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitioners Examiner

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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FIVE MOORE DR., PO BOX 13398
MAIL STOP: C.2111F
RESEARCH TRIANGLE PARK, NC 27709-3398

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NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Anthony James Taylor et al :
Application No. 10/276,932 : DECISION DISMISSING PETITION
Filed: November 20, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PG4102USW :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition did not get to the proper deciding official in time to process the petition prior to the patent issue. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,924,026	2005-08-02	10/277,333	2002-10-22	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Jeff Norby/	Date (YYYY-MM-DD)	2011-02-25
Name	Jeff Norby, President, Jet Lithocolor, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	013451	Frame Number	0211
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6924026
Issue Date: August 2,2005
Application No. 10277333
Filed: October 22,2002
Attorney Docket No. 31294-44964

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 25,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 25,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BROWDY AND NEIMARK, PLLC
1625 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED

DEC 20 2011

OFFICE OF PETITIONS

In re Patent No. 6,713,974 :
Issued: March 30, 2004 :
Application No. 10/277,683 : NOTICE
Filed: October 23, 2002 :
Attorney Docket No. PATCHORNIK 4 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 7, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

MAILED

AUG 2 7 2010

OFFICE OF PETITIONS

In re Patent No. 7,561,924	:	DECISION ON REQUEST
Kolberg et al.	:	FOR
Issue Date: July 14, 2009	:	RECONSIDERATION OF
Application No. 10/278,040	:	PATENT TERM ADJUSTMENT
Filed: October 22, 2002	:	and
Atty Docket No. 117163.00057	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 20 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred fifty-eight (1258) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred ninety-five (1295) days.

The B delay is 131 days, not 132 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on October 23, 2005, and ended on March 2, 2006, *the day before* the RCE was filed, and is 131 (not 132) days. *See* 35 U.S.C. § 154(b)(1)(B)(i).

Further, a review of the record reveals another basis for entry of a period of adjustment for Office delay. Pursuant to 37 CFR 1.702(a)(3), subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

> Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application;

Further, 37 CFR 1.705(a)(5) provides that the period of adjustment is:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

In this instance, a final decision by the BPAI was issued on August 19, 2008, and a notice of allowance was not mailed until January 26, 2009, four months and 38 days later. Pursuant to 1.702(a)(3) and 1.703(a)(5), a period of adjustment of 38 days has been entered.

In view thereof, the revised patent term adjustment has been corrected to one thousand two hundred ninety-five days (1126 + 131 + 38).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand two hundred ninety-five **(1295)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,561,924 B2

DATED : **July 14, 2009** **DRAFT**

INVENTOR(S) : Kolberg et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1126 days

Delete the phrase "by 1126 days" and insert – by 1295 days--

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED
MAR 29 2012
OFFICE OF PETITIONS

In re Patent No. 6,678,431
Issue Date: January 13, 2004
Application No. 10/278,228
Filed: October 23, 2002
Attorney Docket No.: 2013P060

ON PETITION

This is a decision in response to a petition, filed January 27, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 13, 2012 for failure to pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition is timely filed under the provisions of 37 CFR 1.378(c).

The petition is not signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of Thomas A. Mattioli appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Mattioli desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nonetheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office. Receipt is acknowledged of the requisite maintenance fee and surcharge.

In view of the above, the 7 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file is being forwarded to the Files Repository.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MR. THOMAS A. MATTIOLI
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 26 2010

OFFICE OF PETITIONS

GIFFORD, KRASS; SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
PO BOX 7021
TROY MI 48007-7021

In re Application of	:	
Evgeny I. RIVIN	:	
Application No. 10/278,384	:	DECISION ON PETITION
Filed: October 23, 2002	:	TO MAKE SPECIAL UNDER
Attorney Docket No. EIR-10002/03	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 1, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement made by registered attorney Allen M. Krass, which will be treated as the result of the attorney having evidence that at least one of the applicants is 65 years of age or more. In the event that such evidence is not with the attorney, the Office should be notified immediately. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-1700.

The application is being forwarded to Technology Center Art Unit 1771 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MALDJIAN LAW GROUP LLC
36 BINGHAM AVENUE
RUMSON, NJ 07760

MAILED

AUG 19 2011

OFFICE OF PETITIONS

In re Application of :
Kevin Golka et al :
Application No. 10/278,693 : DECISION ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 909165-US-CNT (RWB) A011 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 5, 2004.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-0602.

This application is being referred to Technology Center AU 2111 for appropriate action by the examiner in the normal course of business on the reply received

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 20 2010

#25

OFFICE OF PETITIONS

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

In re Patent No. 7,044,905	:	
Issue Date: May 16, 2006	:	
Application No. 10/278,847	:	NOTICE
Filed: October 24, 2002	:	
Attorney Docket No. 10931.0008-01	:	

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

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

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

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

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of Kruk et al. :
Application No. 10/279,188 : Decision on Petition
Filing Date: October 23, 2002 :
Attorney Docket No. 200901255-1 :

This is a decision on the petition under 37 C.F.R. § 1.182 filed September 14, 2006, requesting the Office change the third inventor's name.

The petition is **granted**.

M.P.E.P. § 605.04(c) states,

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

The petition includes the required petition fee, an affidavit setting forth both names and the procedure whereby the change of name was effected, and a certified copy of a court order changing the inventor's name. Therefore, the petition is granted and the third inventor's name has been changed from Kasra Kasravi to Kas Kasravi.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/279,188	10/23/2002	3689	978	200901255-1	26	3

CONFIRMATION NO. 1065

CORRECTED FILING RECEIPT

22879
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

Date Mailed: 06/02/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jeffrey M. Kruk, Macomb, MI;
Peter P. Quigney, Plano, TX;
Kas Kasravi, W. Bloomfield, MI;

Power of Attorney: The patent practitioners associated with Customer Number 022879

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/344,440 10/23/2001

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 11/19/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/279,188**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for managing supplier intelligence

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	10279645
Filing Date	24-Oct-2002
First Named Inventor	Joseph Thompson
Art Unit	2663
Examiner Name	MELVIN MARCELO
Attorney Docket Number	3287/2004
Title	System for interconnecting standard telephony communications equipment to internet protocol networks

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
4. Statement that the entire delay was unintentional.

Petition fee

The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Reply Fee

☒ A reply in the form of a continuing application with serial number 10770808 has been previously filed on 02-03-2004

Terminal disclaimer with disclaimer fee

☒ Terminal disclaimer and fee are not required

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that the terminal disclaimer and fee have already been filed in the above-identified application on

☐ Terminal disclaimer and fee are attached

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/BruceMargulies/
Name	Bruce T. Margulies
Registration Number	64175

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : February 21, 2012

In re Application of : DECISION ON PETITION

Joseph Thompson

Application No : 10279645

Filed : 24-Oct-2002

Attorney Docket No : 3287/2004

This is an electronic decision on the petition under 37 CFR 1.137(b), filed February 21, 2012 , to revive the above-identified application .

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to an Office action. The date of abandonment is the day after the expiration date of the period set for reply in the Office action or action plus any extensions of time actually obtained.

The electronic petition satisfies the requirements of 37 CFR 1.137(b) in that the practitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee under 37 CFR 1.17(m), and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No 10770808 filed on 02-03-2004

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

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA OK 74103-3318

In re Patent No. 6,645,096 :
Issued: January 11, 2003 :
Application No.: 10/279,699 : NOTICE
Filed: October 24, 2002 :
Attorney Docket No: **P00739-US-0 (19230.0002)** :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/279,699	10/24/2002	Michael J. Nally	P00739-US-0 (19230.0002)

CONFIRMATION NO. 9711

POA ACCEPTANCE LETTER

22206
FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA, OK 74103-3318

Date Mailed: 07/26/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kathornton mclaughl/

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,591,549	2003-07-15	10279812	2002-10-23	8403.572

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/klhester/	Date (YYYY-MM-DD)	2011-08-03
Name	KATHRYN L. HESTER, Ph.D.	Registration Number	46768

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6591549
Issue Date: July 15,2003
Application No. 10279812
Filed: October 23,2002
Attorney Docket No. 8403.572

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 3,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 3,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No: .....

DATE: 1/18/11

TO SPE OF: ART UNIT 2629

SUBJECT: Request for Certificate of Correction for Appl. No.: 10/272827 Patent No.: 7877565

CofC mailroom date:
11/17/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square -- 9D15-A
Palm Location 7580

Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision in the appropriate box.

☒ Approved — All changes apply.

☐ Approved in Part — Specify below which changes do not apply.

☐ Denied — State the reasons for denial below.

Comments: .....

/Jimmy H Nguyen/

Primary Examiner, Art 2629

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7037620
Issue Date: May 2,2006
Application No. 10280008
Filed: October 25,2002
Attorney Docket No. P 0300094 BATTERY

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,037,620	2006-05-02	10/280,008	2002-10-25	006679-0300094

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John A. Evans/	Date (YYYY-MM-DD)	2011-03-30
Name	John A. Evans	Registration Number	44100

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Clark et al. :
Application No. 10/280,043 : DECISION DISMISSING
Filed: October 15, 2002 : PETITION UNDER 37 CFR 1.10(c)
Attorney Docket No. 1033456-000001 :

This is a decision on the petition filed February 17, 2011, which is properly treated as a petition under 37 CFR 1.10 requesting that the above-identified application be considered as filed on October 4, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

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

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

(3) include a true copy of the "Express Mail" mailing label showing the "date in" or other official notation by the USPS.

This petition lacks all of the above.

Petitioner requests the filing date of October 4, 2002 on the basis that there is a discrepancy between the date the application was deposited with the USPS. It is first noted that the first time

the issue of the filing date was raised was after the mailing of the Notice of Allowance as such there is no indication that this petition was filed promptly.

Although petitioner has provided a copy of the first page of the specification which includes a number for an Express Mail label, the label number on the specification does not match the Express Mail Label. The copy of the certificate of Express Mail Number on the specification provided on petition includes Express Mail Number EL941359296US. However, a review of the Office record shows the Express Mail Number provided on the first page of the specification is EL94135929US. As such the incorrect number was provided on filing. Thus, petitioner is unable to establish that the number of the Express Mail mailing label was placed on paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express.

Lastly, a review of the copy of the Express Mail label shows that the "date in" is blank. Further the Express Mail label does not include any official notation by the USPS. Pursuant to 37 CFR 1.10 (a)(2), if the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,112,361 :
Issue Date: September 26, 2006 :
Application No. 10/280,268 : NOTICE
Filed: October 24, 2002 :
Attorney Docket No. 0492611-0462/MIT-9487 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 10, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED.**

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Daniel O'Brien
Massachusetts Institute of Technology
Technology Licensing Office
Five Cambridge Center, Kendall Square
Cambridge, MA 02142-1493

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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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,662,792
Issued: February 16, 2010
Application No. 10/280,274
Filed: October 25, 2002
Attorney Docket No. 02811-0242
(42368-2 79803)

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN ISSUE NOTIFICATION" filed May 20, 2010 and which is being treated pursuant to 37 C.F.R. § 1.705 (d). The request argues that the patent term adjustment indicated on the above-identified patent be corrected from 1153 days to 1270 days.

The request is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On July 23, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Office initially determined a patent term adjustment based on an adjustment for PTO delay of four hundred thirty-nine (439) days, pursuant to 35 U.S.C. 154(b)(1)(A)(I) and 37 CFR §§1.702(a)(1).

On February 16, 2010, the above-identified application matured into U.S. Patent No. 7,662,792 with five hundred twelve (512) total PTA days. On April 6, 2010, patentee filed a COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN ISSUE NOTIFICATION and on April 21, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 1153 days.

Applicant's argument has been considered but is not found to be persuasive.

A review of the file reveals that 117 days were deducted for applicant delay for a miscellaneous incoming letter filed on October 23, 2009 after allowance of an Application for Patent Term Adjustment. The reduction in question, after the mailing of the Notice of Allowance was a REQUEST FOR CORRECTED FILING RECEIPT.

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
> or
> (ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority

claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

In this instance, the reduction has been considered a proper a basis for reduction. While a request for corrected filing receipt to correct the priority claim had been filed previously, a property priority claim was not filed and thus, the filing of the request after the mailing of the notice of allowance was a proper reduction of patent term adjustment pursuant to 37 CFR § 1.704(c)(10).

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

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JUN 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,662,792
Issued: February 16, 2010
Application No. 10/280,274
Filed: October 25, 2002
Attorney Docket No. 02811-0242
(42368-2 79803)

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST FOR PATENT TERM ADJUSTMENT (PTA) INDICATED IN ISSUE NOTIFICATION filed on November 22, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1153 days to 1270 days.

The request is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the previous decision mailed October 20, 2010 is properly indicated.

On July 23, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Office initially determined a patent term adjustment based on an adjustment for PTO delay of four hundred thirty-nine (439) days, pursuant to 35 U.S.C. 154(b)(1)(A)(I) and 37 CFR §§1.702(a)(1). On February 16, 2010, the above-identified application matured into U.S. Patent No. 7,662,792 with five hundred twelve (512) total PTA days. On April 6, 2010, patentee filed a COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN ISSUE NOTIFICATION and on April 21, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of

correction would be issued indicating that the term of the patent was extended or adjusted by 1153 days.

A request for reconsideration filed May 20, 2010 argued that 117 days deducted for a REQUEST FOR CORRECTED FILING RECEIPT filed October 23, 2009, after allowance, was in error because previous requests for a corrected filing receipt had been requested, prior to allowance. In a decision mailed October 20, 2010, Patentee was advised that while a request for corrected filing receipt to correct the priority claim had been filed previously, a proper priority claim was not filed and thus, the filing of the request after the mailing of the notice of allowance was a proper reduction of patent term adjustment pursuant to 37 CFR § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
> or
> (ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error

> or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

Patentees submit further that "a proper priority claim was made on the filing date of this application. A preliminary amendment was filed along with the application on October 25, 2002, requesting that the first paragraph of the specification be amended to include that the application was a divisional application of U.S. Application No. 09/879,668 which was filed June 12, 2001. The complete priority chain is also shown on the application transmittal sheet filed with the application on October 25, 2002. The original filing receipt did not reflect the full priority claim. Therefore, Applicants then submitted a Request to Correct Filing Receipt on January 30, 2003 (within 4 months of the filing date of the application) to correct the priority claim. Accordingly, Applicants respectfully submit that a proper priority claim was made prior to the allowance of this application, and Applicants respectfully request that the Patent Office reconsider the Decision with respect to the determination of PTA reduction due to applicant delay."

Patentee's argument has been considered but is not found to be persuasive.

In this instance, as was previously indicated, a proper priority claim was not filed prior to allowance of the application. In a RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT mailed June 3, 2003, applicant was advised that; "Continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the applicant supplying the relationship (continuation, divisional, or continuation-in-part) in an Application Data Sheet or amendment to the first page of the specification PCT/CA00/01467,09/735,363".

Several improper requests to correct priority were made prior to the mailing of the Notice of Allowance. Specifically, a proper priority claim can not be found in an application transmittal and since the four month period for correcting priority had expired, a petition to accept an unintentionally delayed claim under 35 U.S.C. §§120, and 119(e) would had to have been filed. Additionally, an Application Data sheet was not supplied until October 23, 2009, after the Notice of Allowance was mailed. In view thereof, the filing of a request for corrected filing receipt to correct the priority claim, after the mailing of the notice of allowance was a proper reduction of patent term adjustment pursuant to 37 CFR § 1.704(c)(10).

Applicants are advised that other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process

an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Filing of a request for corrected filing receipt to correct the priority claim after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution.

As such, the patent term adjustment is 1153 days, not 1270 days.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 08 2010

OFFICE OF PETITIONS

JASON GREENSTEIN ESQ
GENERAL COUNSEL
LIFE EXTENSION FOUNDATION
1100 W COMMERCIAL BOULEVARD
FT LAUDERDALE FL 33309

In re Patent No. 6,896,914 :
Issue Date: May 24, 2005 :
Application No. 10/280,332 : DECISION ON PETITION
Filed: October 25, 2002 :

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed October 4, 2010.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued May 24, 2005. Accordingly, the first maintenance fee could have been paid during the period from May 24, 2008 through November 24, 2008 without surcharge, or with a late payment surcharge during the period from November 25, 2008 through May 24, 2009. No maintenance fee having been received, the patent expired on May 25, 2009.

Since the instant petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c). The maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: James Wright
B & P Company
97 Compark Rd
Dayton OH 45459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

In re Patent No. 7,731,744 : DECISION ON APPLICATION FOR
Issued: June 8, 2010 : PATENT TERM ADJUSTMENT
Application No. 10/280,632 :
Filing or 371(c) Date: October 25, 2002 :
Dkt. No.: ACS 61275 (3493P) :

This is a decision on the petition filed on June 16, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted an additional 284 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,731,744 on June 8, 2010. The instant application for patent term adjustment (PTA) was timely filed in accordance with 37 CFR 1.705(d). Patentees appear to assert entitlement to a "B" delay of 986 days. Patentees further assert that the overall PTA is subject to a reduction of 63 days for applicant delay.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 26, 2005 and ends on July 6, 2008, the day before the RCE was filed, and not July 7, 2008, the day of filing of the RCE, as perhaps calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 985 days, not 986 days.

Patentees again assert that the total applicant delay is 63 days. As previously asserted on petition decision, the overall adjustment of patent term is subject to an overall applicant delay of 75 days, not 63 days. Patentees fail to acknowledge the applicant delay of four days in connection with the reply filed September 27, 2006. See, 37 CFR 1.704(b). Applicants further fail to acknowledged the applicant delay of eight days in connection with the reply filed March 20, 2007. Id.

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

DO NOT ENTER: /M.H./

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,931,629 B2

APPLICATION NO.: 10/280,731

ISSUE DATE : April 26, 2011

INVENTOR(S) : Jack W. Romano

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

1) Column 1, line 5: delete the two spaces between Material and (s) and Content and (s) to read Material (s)/Contents(s).
2)Column 1, line 19: delete 'consolidated' between -applications- and -and- to read "applications consolidates and".
3)Column 3 line 2: delete 'structured' and insert "Structured" in its place.
4)Column 3, line 29: delete 'destination' and insert -destinations- in its place to read "delivery destinations and"
5)Column 4, line 53: delete 'of' and insert -or- to read "one or more"
6)Column 6, line 8: delete 'fro' and insert -for- in its place to read "ports for ingress"
7)Column 6, line 18: delete 'reduce' and insert -reduced- in its place to read "a reduced number"
8)Column 7, line 47: delete 'show' and insert -shows- in its place to read "FIG. 4 shows a"
9)Column 8, line 1: delete 'show' and insert -shown- inits place to read "is shown with"
10)Column 8, line 65: delete 'an' and insert -a- in its place to read "of a barrier"
11)Column 9, line 21: delete 'wholes' and insert -holes- in its place to read "the holes"
12)Column 9, line 24: delete 'strut' and insert -struts- in its place to read "anti-motion struts may"
13)Column 9, line 52: delete 'sows' and insert -shows- in its place to read "FIG. 22 shows three"
14)Column 9, line 57: delete 'a' and insert -A- in its place to read "schematic A are"
15)Column10, line 4: delete 'and' and insert -an- in its place to read "as an"
16)Column 10, line 65: delete 'show' and inset -shown- in its place to read "are shown for"
17)Column 12, line 1: delete 'show' and insert -shown- in its placd to read "is shown to"
18)Column 12 lines 12-13: insert 'be' between -may- and -used- to read "may be used"
19)Column 12, line 36: delete 'to' between -intended- and -for- to read "intended for'
20)Column 12, line 45: insert 'on' between -Mounted- and -one- to read "Mounted on one"
21)Column 12, line 58: delete 'slidable' and insert -slidably- in its place to read "132 slidably engages"
22)Column 12, line 65: delete 'as' and insert -and- in its place to read "FIGS. 10 and 121"
23)Column 13, line 11: delete 'position' and insert -positioned- in its place to read "and positioned to"
24)Column 13, line 23: delete 'support' and insert -supports- to read "motion supports 172"
25)Column 13, line 28: delete 'one' in two places and insert -1- in said two places, and delete 'in' in one place to read "FIG. 2 and width 1-196 of Fig. 18 but width 1-196 of"

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Medindica-Pak, Inc.
9701 NE 120th Place
Kirkland, WA 98034

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/44 (09-07)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,931,629 B2

APPLICATION NO.: 10/280,731

ISSUE DATE : April 26, 2011

INVENTOR(S) : Jack W. Romano

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

26)Column 13, line 32: insert a space " " between -of- and Fig. 1- and insert '-' between -1- and 191- to read "of Fig. 1 however length 1-191 of"
27)Column 13, line 35: delete 'f' and insert -of- between -13- and -Figs. 1 & 2- to read "13 of FIGS. 1 & 2"
28)Column 17, line 25: delete 'egress' and insert -ingress- in its place to read "ingess orientation"
29)Colunm 17, line 32: insert 'be' between -to- and -preceded- to read "to be preceded"
30)Column 18, line 8: delete 'ascertainment' and insert -creation- in its place to read "during creation and"
31)Column 18, lines 17-18: delete 'waste material' between -material(s)- and -ingress- to read "waste materials ingress from"
32)Columnb 19 line 3: delete 'ascertain' and insert 'create' to read "create and establish"

Corrections 1-27 and 31: compliant with 35 USC 255
Corrections 28-30,32: unclear (#29) or not compliant 35 USC 255 for changing the scope of the claims, potentially introducing new matter. Such issues must be addressed with a reissue application. See 37. CFR 1.323 and MPEP 140-1460 regarding reissue applications. /MH/ 12/9/11

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Medindica-Pak, Inc.
9701 NE 120th Place
Kirkland, WA 98034

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:201112091

DATE : December 09, 2011

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Corrections 28-30 and 32 do NOT apply. They are attempts to amend the claims in a manner that changes their scope and which may introcuew new matter.
Correction #28 itself has a typo.

Correction 29 is unclear as the words he refers to are not in the column and lines he refers to.

/Melanie J Hand/
Primary Examiner, Art Unit 3761

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/280,748	10/26/2002	William D. Pagdin		5199

7590 11/29/2011

WILLIAM D. PAGDIN
1604 Winding Way
Anderson, IN 40011

EXAMINER	
SZYMANSKI, THOMAS M	
ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
11/29/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Eric C. Goggans
P.O.BOX 8910
Reston, Virginia 20195

In re Application of:
William D. Pagdin et al.
Application No. **10/280,748**
Filed: February 02, 2011
For: Data Analysis and Security System

DECISION ON PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR §1.324

This is a decision on the petition filed February 02, 2011 requesting to add an inventor under 37 CFR §1.324.

37 CFR 1.324 States:

(a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Director, pursuant to 35 U.S.C. 256, may, on application of all the parties and assignees, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.

(b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

(1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;

(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and

(4) The fee set forth in § 1.20(b).

The petition as filed meets the above-mentioned requirements. For the above-stated reasons, the petition is **GRANTED**.

Any inquiry concerning this decision should be directed to the undersigned at (571) 272-3612.

Tod Swann
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/281,053	10/24/2002	Gongyi Zhang	2879-86	5265

7590 09/27/2010

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

EXAMINER	
EMCH, GREGORY S	

ART UNIT	PAPER NUMBER
1649	

MAIL DATE	DELIVERY MODE
09/27/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 24, 2010

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of	:	
Gongyi Zhang, et al	:	**DECISION ON PETITION**
Application No. 10281053	:	
Filed: 10/24/2002	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **2879-86**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 22, 2003.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

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

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

Kimberly Terrell, Manager
Office of Data Management
Publications Branch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/05/11

TO SPE OF : ART UNIT 3687

SUBJECT : Request for Certificate of Correction for Appl. No.: 10281074 Patent No.: 7644863

CofC mailroom date: 06/21/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should Claim 26 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

PAGE 1/2 * RCVD AT 7/11/2011 9:20:17 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/3 * DNIS:2733421 * CSID:703 308 3687 * DURATION (mm-ss):01-03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

SPE
AE 3687

SPE **Art Unit**

PAGE 2/2 * RCVD AT 7/11/2011 9:20:17 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/3 * DNIS:2733421 * CSID:703 308 3687 * DURATION (mm-ss):01-03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/281,218	10/28/2002	Michael S. Weaver	10052/2401	3531

23838 7590 12/22/2010

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER	
FARAHANI, DANA	

ART UNIT	PAPER NUMBER
2891	

MAIL DATE	DELIVERY MODE
12/22/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KENYON & KENYON
1500 K Street NW
Suite 700
Washington, DC 20005

In re Application of: Weaver, et al
Serial No.: 10/281218
Filed: October 28, 2002

: PETITION FOR CORRECTION OF
: INVENTORSHIP
: UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed 10 October 2006 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed 10 October 2006 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding:

Raymond Kwong

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

KBryant

Kiesha R. Bryant
Supervisory Patent Examiner,
Art Unit 2891

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7019794	2006-03-28	10281282	2002-10-28	P67328US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jonathan L. Scherer/	Date (YYYY-MM-DD)	2012-03-01
Name	Jonathan L. Scherer	Registration Number	29851

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7019794
Issue Date: March 28,2006
Application No. 10281282
Filed: October 28,2002
Attorney Docket No. P67328US1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 1,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 1,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/28/10

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No.: 10281673 Patent No.: 6692940

CofC mailroom date: 12/17/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The proposed Certificate of Correction is based upon MPEP 201.16 MPEP 201.16 applies to perfecting a foreign priority claim in which the instant application is a continuation under 37 CFR 1.60 or under 35 USC 120

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

of a case in which the foreign priority had been properly claimed. It is not the proper basis for perfecting priority under 35 USC 120.

Terry A McKelvey

TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER

1655

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 02/21/11

Patent No. : 6692940 B2
Patent Issued : 02/17/04
Docket No. : **5611-US-DIV[2]**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 12/17/10; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

NOVOZYMES, INC.
1445 DREW AVE
DAVIS CA 95618

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/28/10

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No.: 10281673 Patent No.: 6692940

CofC mailroom date: 12/17/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments: The proposed Certificate of Correction is based upon MPEP 201.16. MPEP 201.16 applies to perfecting a foreign priority claim in which the instant application is a continuation under 37 CFR 1.60 or under 35 USC 120.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

of a case in which the foreign priority had been properly claimed. It is not the proper basis for perfecting priority under 35 USC 120.

TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER

1655

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOVOZYMES, INC.
1445 DREW AVE
DAVIS CA 95618

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Patent No. 6,692,940 : DECISION DISMISSING PETITION
Issue Date: February 17, 2004 : UNDER 37 CFR 1.78(a)(3)
Application No. 10/281,673 :
Filed: October 28, 2002 :
Attorney Docket No. 5611-US-DIV[2] :

This is a decision on the petition, considered filed April 27, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/999,201, filed October 30, 2001 (issued February 11, 2003), by way of a certificate of correction.

The petition is DISMISSED without prejudice to reconsideration upon the submission of the required reference.

As stated in MPEP 1481, a Certificate of Correction can be used, with respect to 35 U.S.C. 120 priority, to correct the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2). Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

The instant decision is a determination as to whether condition C has been met; that is, have the requirements of 37 CFR 1.78(a)(3) been met. Prior to issuance of the certificate of correction, the examiner will determine if conditions A and B above have been met.

With respect to 37 CFR 1.78(a)(3), a review of the image file wrapper discloses that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was not made within the time period set forth in 37 CFR 1.78(a)(2)(ii). Nor was the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application submitted during the pendency of the application.

The instant application was filed October 28, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.

Receipt of the proposed certificate of correction and the certificate of correction fee is acknowledged.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with requirement (1) as the petition does not include the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and such reference was not previously submitted. 37 CFR 1.78(a)(2)(i) provides that:

> Except for a continued prosecution application filed under

> § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

Further, 37 CFR 1.78(a)(2)(iii) provides, in pertinent part, that:

> ... the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) including the required reference will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3) and issuing a certificate of correction.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVOZYMES, INC.
1445 DREW AVE
DAVIS CA 95618

MAILED

MAR 26 2012

OFFICE OF PETITIONS

In re Patent No. 6,692,940	:	DECISION ON PETITION
Issue Date: February 17, 2004	:	UNDER 37 CFR 1.78(a)(3)
Application No. 10/281,673	:	
Filed: October 28, 2002	:	
Attorney Docket No. 5611-US-DIV[2]	:	

This is a decision on the PETITION UNDER 37 CFR § 1.78(a)(3), filed January 20, 2012, which requests reconsideration of the petition filed April 27, 2011 and dismissed by decision mailed September 27, 2011.

The renewed petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR § 1.78(a)(2)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i), of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii), and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The initial petition was dismissed on the basis that the petition did not include the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2).
As previously stated, pursuant to rule 78(a)(2)(iii), the reference must be included in an application data sheet (in compliance with § 1.76, which includes being executed and being titled supplemental if submitted after filing of the application) or in an amendment to the first sentence of the specification following the title (in compliance with § 1.121).

On renewed petition, petitioner has submitted neither a supplemental application data sheet nor an amendment. Rather, petitioner has only stated the reference in the petition. This is not acceptable.

In view thereof, the petition is dismissed.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

George A. Coury
BACHMAN & LaPOINTE, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

Mail Date: 08/02/2010

Applicant	: Dominique Petit	: DECISION ON REQUEST FOR
Patent Number	: 7651516	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/282,278	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1533** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7160276	2007-01-09	10282295	2002-10-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/yaflebregor/	Date (YYYY-MM-DD)	2011-02-28
Name	Roger Belfay	Registration Number	51449

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7160276
Issue Date: January 9,2007
Application No. 10282295
Filed: October 28,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 28,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 28,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

NORDSON CORPORATION
28601 CLEMENS ROAD
WESTLAKE OH 44145-1148

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,617,951	:	DECISION ON REQUEST
Saidman et al.	:	FOR
Issue Date: November 17, 2009	:	RECONSIDERATION OF
Application No. 10/282,573	:	PATENT TERM ADJUSTMENT
Filed: October 29, 2002	:	and
Title: COMPACT HEATED AIR MANIFOLDS FOR ADHESIVE APPLICATION	:	NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-six (876) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-six (876) days is **GRANTED to the extent indicated herein.**

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 30, 2005 and ends on June 7, 2007, the day

before the first RCE was filed, which amounts to 586 (not 587) days for "B" delay. See U.S.C. 154(b)(1)(B)(i).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seventy-six (876) days.**

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,617,951 B2

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : Saidman et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 428 days

Delete the phrase "by 428 days" and insert – by 876 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,917,444 :
Issued: March 29, 2011 :
Application No. 10/282,641 : ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. 105.178US1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 31, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 2, 2011

TO SPE OF : ART UNIT 3694 SPE James Trammel

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/282,641 Patent No.: 7,917,44 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the applicant's claim to enter priority on title page of patent and in specification be entered as requested by applicant?
See COCIN dated 5-24-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE 11/2/11 Art Unit 3607

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 8/9/10

TO SPE OF : ART UNIT: 2123 Attn: RODRIGUEZ PAUL L (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/282869 Patent No.: 7752024

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2123
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/282,897	10/29/2002	John Ronald Rice	023698-0101	6936

27433 7590 05/25/2011

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

EXAMINER	
PARSLEY, DAVID J	

ART UNIT	PAPER NUMBER
3643	

MAIL DATE	DELIVERY MODE
05/25/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 25 2011

Foley & Lardner, LLP
321 North Clark Street
Suite 2800
Chicago, IL 60654-5313

In re application of	:	**DECISION ON PETITION**
John Ronald Rice et al.	:	**TO MAKE SPECIAL**
Application No. 10/282,897	:	**(INFRINGEMENT)**
Filed: October 29, 2002	:	
For: PAINTBALL MARKERS		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 29, 2002 to make the above-identified application special. The lengthy delay in treating this petition is sincerely regretted.

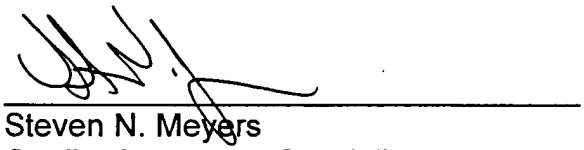
The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed October 29, 2002 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Steven N. Meyers
Quality Assurance Specialist
Technology Center 3600
(571) 272-6611

SNM/snm: 5/25/11

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Patent No. 7,158,621	:	
Issue Date: January 2, 2007	:	
Application No. 10/282,991	:	NOTICE
Filed: October 29, 2002	:	
Attorney Docket No. 18279-13920	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 23, 2011

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10283025 Patent No.: 7211174

CofC mailroom date: May 12 2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER 1724

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110824

DATE : August 24, 2011

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 6,994,977

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

Proposed change to SEQ ID NO:2 would require re-examination and would materially afffect the scope of the issued patent.

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Patent of Suemura	: DECISION ON REQUEST
Patent No. 7,372,806	: FOR
Issue Date: May 13, 2008	: RECONSIDERATION OF
Application No. 10/283,241	: PATENT TERM ADJUSTMENT
Filed: October 30, 2002	: and
Atty Docket No. 017344-0323	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-six (1546) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-six (1546) days is **GRANTED**.

On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR § 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. § 154(b)(2)(A), 75 Fed. Reg. 5043 (Feb. 1, 2010)* (notice). Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010)* up to 180 days after the grant of the patent.

As the initial petition for reconsideration of the patent term was filed on Monday, November 10, 2008, which was the first business day after 180 days after the patent issued, and only addressed the overlapping delay provisions of 35 U.S.C. § 154(b)(2)(A), it was filed within the outer limit of the USPTO's ability to conclude its PTA determination. The initial petition was dismissed on September 28, 2009, as the Office had not yet instituted the provision for limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37

CFR § 1.705(d). The present request for reconsideration of dismissal was filed within two (2) months of the mail date of the September 28, 2009 decision. As such, it was timely filed.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred forty-six (1546)** days.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,372,806 B2

DATED : **May 13, 2008** **DRAFT**

INVENTOR(S) : Suemura

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1051 days .

Delete the phrase "by 1051 days" and insert – by 1546 days--

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APR 27 2011

OFFICE OF PETITIONS

NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

In re Application of Cheney et al. :
Application No. 10/283,357 : Decision on Petition
Filing Date: October 30, 2002 :
Attorney Docket No. 723-1329 :

This is a decision on the petition under 37 C.F.R. § 1.181 filed March 8, 2010, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 C.F.R. § 1.181 is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The Office mailed a Final Office action on June 23, 2009, which set a shortened statutory period for reply of three (3) months.

A reply was filed September 22, 2009.

An Advisory Action mailed November 10, 2009, stated the amendment would not be entered because the amendment raised new issues that would require further consideration and search.

A letter filed November 23, 2009, stated,

> The undersigned attorney (Joseph Presta) and Jonathan Roberts participated in a telephone interview with Examiner Ade on November 23, 2009 in connection with the above-identified application. During the interview, the parties agreed that the Office action dated June 23, 2009 was made "final" prematurely. Thus, the Examiner agreed to issue a new non-final Office action in due course.

The record does not include an interview summary prepared by the examiner discussing the November 23, 2009 conversation.

A prior petition filed in this case stated the examiner's agreement to withdraw the final Office action was telephonically confirmed with the examiner's supervisor, Matthew S. Gart. Neither the prior petition nor the instant petition identifies the date the supervisor conformed the Office action would be withdrawn.

The examiner and Jonathan Roberts participated in a telephonic interview on December 23, 2009. An unofficial copy of an interview summary discussing the interview was sent to Roberts by facsimile transmission on December 23, 2009. The interview summary stated, "The Final Office Action sent on 06.22.2009 will be withdrawn. A new Non-Final Office action will be [mailed]."

An official copy of the interview summary discussing the December 23, 2009 interview was mailed December 30, 2009.

The examiner did not withdraw the final Office action and a request for an extension of time was not obtained. As a result, the application became abandoned on September 24, 2009.

The Office mailed a Notice of Abandonment on March 1, 2010.

A petition to withdraw the holding of abandonment was filed March 8, 2010.

A decision dismissing the March 8, 2010 petition was mailed July 23, 2010.

The instant petition was filed July 23, 2010.

Discussion

The July 23, 2010 decision stated,

> The application would not have become abandoned if the final Office action had been withdrawn during the six-month statutory time period set forth in 35 U.S.C. § 133. In other words, the application would not have become abandoned if the final Office action had been withdrawn on or before December 23, 2009.
>
> The examiner did not withdraw the final Office action on or before December 23, 2009. The record fails to indicate whether or not the examiner, during the December 23, 2009 interview, indicated a notice withdrawing the final Office would be mailed on December 23, 2009, the last date such action could have been taken.
>
> When a petition to withdraw the holding of abandonment is filed, the Office need not determine if holding the application abandoned is "fair." Instead, the only issue to be addressed is whether or not the application is actually abandoned. In this case, a proper reply was not filed in response to the final Office action and the Office action was not withdrawn within the six-month statutory period for reply. Therefore, the application is abandoned as a matter of law even if such a result is not "fair."

The instant petition asserts the final Office action was withdrawn on December 23, 2009, and cites the interview summary sent to Roberts on December 23, 2009, in support of the assertion.

An indication in an interview summary form indicating an examiner plans to take an action is not the equivalent of the examiner actually taking the action. For example, if an examiner mailed an interview summary stating a Notice of Allowance "will be" mailed, but inadvertently failed to mail the Notice of Allowance, the examiner could not mail a Notice of Abandonment if the issue fee was not paid within three months of the date the examiner mailed the interview summary.

In this case, the interview summary transmitted to Roberts on December 23, 2009, stated, with emphasis added, "The Final Office Action sent on 06.22.2009 *will be* withdrawn." As previously discussed, an indication an examiner plans to take an action is not the equivalent of the examiner taking the action. Therefore, the indication the examiner planned to withdraw the final Office action did not actually withdraw the final Office action. In other words, the final Office action was not withdrawn on or before December 23, 2009, and the application is abandoned.

Even if the interview summary had stated the final Office action "is hereby withdrawn," the petition could not be granted for two reasons. First, the examiner did not mail an *official* copy of the interview summary until December 30, 2009, which was more than six months after the date the final Office action was mailed. Second, an interview summary form may not be used to replace the need for an examiner to issue an Office action or notice. Instead, the interview summary form may only be used to summarize an interview.

In view of the prior discussion, the statement that the final Office action "will be" withdrawn set forth in an unofficial copy of the December 30, 2009 interview summary sent to Roberts by facsimile transmission on December 23, 2009, did not withdraw the final Office action. Therefore, the application is abandoned and the holding of abandonment will not be withdrawn.

The petition under 37 C.F.R. § 1.181 filed March 8, 2010, stated, with emphasis in the original,

> Applicant here conditionally petitions for revival of the above-identified application. In view of the [USPTO's] clear error, it is plainly evident that the abandonment of this application was both unintentional and unavoidable.

The Office issued a decision dismissing the March 8, 2010 petition on July 23, 2010. The decision stated,

> The petition does not clearly state whether or not petitioner intends for the conditional petition to revive to be considered under 37 C.F.R. § 1.137(a), 37 C.F.R. § 1.137(b), or initially under 37 C.F.R. § 1.137(a) and in the alternative under 37 C.F.R. § 1.137(b). Therefore, the Office will not consider the merits of the "petition for a revival" at this time. Any future petition to revive should clearly indicate whether or not the petition is being filed under 37 C.F.R. § 1.137(a), 37 C.F.R. § 1.137(b), or 37 C.F.R. § 1.137(a) with a petition under 37 C.F.R. § 1.137(b) being filed in the alternative.

The instant petition states, with emphasis in the original,

> Applicant here conditionally petitions for revival of the above-identified application. In view of the [USPTO's] clear error, it is plainly evident that the abandonment of this application was both unintentional and unavoidable.

As stated in the prior decision, the language above is ambiguous. Therefore, the Office will not consider the merits of any petition to revive at this time. Any future petition to revive should clearly indicate whether or not the petition is being filed under 37 C.F.R. § 1.137(a), 37 C.F.R. § 1.137(b), or 37 C.F.R. § 1.137(a) with a petition under 37 C.F.R. § 1.137(b) being filed in the alternative.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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AUG 03 2011
OFFICE OF PETITIONS

In re Application of Cheney et al. :
Application No. 10/283,357 : Decision on Petition
Filing Date: October 30, 2002 :
Attorney Docket No. 723-1329 :

This is a decision on the petition under 37 C.F.R. § 1.181 filed June 27, 2011, to withdraw the holding of abandonment of the above-identified application. The petition is filed in the alternative under 37 C.F.R. § 1.137(b).

The petition under 37 C.F.R. § 1.181 is **dismissed**.

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

Facts

The Office mailed a Final Office action on June 23, 2009, which set a shortened statutory period for reply of three (3) months.

A reply was filed September 22, 2009.

The Office mailed an Advisory Action on November 10, 2009. The Advisory Action stated the amendment would not be entered because added features in the amended claims raised new issues that would require further consideration and search.

Applicants filed a letter on November 23, 2009. The letter states, with emphasis added,

> The undersigned attorney (Joseph Presta) and Jonathan Roberts participated in a telephone interview with Examiner Ade on November 23, 2009 in connection with the above-identified application. During the interview, the parties agreed that the Office action dated June 23, 2009 was made "final" prematurely. Thus, the Examiner agreed to issue a new non-final Office action *in due course*.

The record does not include a summary of the November 23, 2009 interview prepared by the examiner.

The examiner and Jonathan Roberts participated in a telephonic interview on December 23, 2009. A copy of an interview summary was sent to Roberts by facsimile transmission on December 23, 2009. The interview summary states, with emphasis added, "The Final Office Action sent on 06.22.2009 will be withdrawn. A new Non-Final Office action will be [mailed]."

The petition alleges, during the December 23, 2009 interview, the examiner stated the examiner had "delayed acting in the case [because] he was worried ... he would not be granted partial signatory authority" if the case got flagged for review.[1] The petition is signed by Attorney Joseph S. Presta. The December 23, 2009 interview summary states the participants in the interview were the examiner and Jonathan Roberts. The interview summary does not indicate Presta participated in the interview. Therefore, Presta does not appear to have firsthand knowledge of any comments made by the examiner during the interview or the context within which such statements were made. The petition does not include a statement by Roberts.

An official copy of the interview summary discussing the December 23, 2009 interview was mailed December 30, 2009.

The examiner did not withdraw the final Office action prior to the expiration of the six-month statutory period set forth in 35 U.S.C. § 133, and an extension of time to respond to the June 23, 2009 Office action was not obtained. As a result, the application became abandoned on September 24, 2009.

The Office mailed a Notice of Abandonment on March 1, 2010.

A petition to withdraw the holding of abandonment was filed March 8, 2010.

A decision dismissing the March 8, 2010 petition was mailed July 23, 2010.

A request for reconsideration of the July 23, 2010 decision was filed September 25, 2010.

A decision dismissing the September 25, 2010 request for reconsideration was mailed April 27, 2011.

The instant request for reconsideration was filed June 27, 2011.

Discussion

37 C.F.R. § 1.2 states,

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

[1] June 27, 2011 Petition, n. 1 (emphasis added in italics).

In view of 37 C.F.R. § 1.2, the instant decision is based exclusively on the written record.

The Petition under 37 C.F.R. § 1.181

The instant petition requests withdrawal of the holding of abandonment.

The application is abandoned as a matter of law unless:

1. A proper reply was timely filed in response to the June 23, 2009 final Office action, or
2. The Office withdrew the June 23, 2009 Office action on or before December 23, 2009.

The instant petition does not contend a proper reply was timely filed in response to the June 23, 2009 final Office action. Instead, the petition asserts the June 23, 2010 Office action was withdrawn prior to the expiration of the six-month time period set forth in 35 U.S.C. § 133.

The petition states the examiner sent an interview summary by facsimile transmission on December 23, 2009, "officially withdrawing the Final Office action and indicating that a new non-final Office action will be mailed."[2]

The Office agrees the application is not abandoned if the Office withdrew the final Office action on December 23, 2009. Therefore, the Office must determine if the interview summary sent to Applicants on December 23, 2009, withdrew the final Office action.

The December 23, 2009 interview summary does *not* state the final Office action *is being* withdrawn. Instead, the interview summary explicitly states the final Office action *will be* withdrawn. Specifically, the interview summary states, with emphasis added, "The Final Office Action sent on 06.22.2009 *will be* withdrawn. A new Non-Final Office action *will be* [mailed]."

The petition filed March 8, 2010 included language recognizing the interview summary indicated "the Final Office action *was to be* withdrawn."[3]

The instant petition appears to assert the interview summary confirmed the final Office action "would be withdrawn." Specifically, the instant petition states, "[B]oth the Examiner and the Examiner's supervisor indicated that the Final Office action *would be* withdrawn orally and then confirmed the same in official, written USPTO communications."[4]

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[2] June 27, 2011 Petition at 1.

[3] March 8, 2010 Petition at 2 (emphasis added).

[4] June 27, 2011 Petition at 2 (emphasis added).

Despite the prior facts, the instant petition states,

> [The December 23, 2009 interview summary was] a clear and unambiguous official communication form the USPTO indicating that the previous Final Office Action ... was withdrawn and that a new non-final Office action would be mailed on December 23, 2009.[5]

The interview summary did not clearly and unambiguously withdraw the final Office action. Instead, the interview summary clearly asserts the final Office action "will be" withdrawn. An indication an action "will be" taken is not the equivalent of actually taking an action. For example, although the interview summary states a new non-final Office action "will be" mailed, the issuance of the interview summary was clearly not the equivalent of issuing a new non-final Office action.

The petition asserts the examiner's choice to use "will be" instead of "is being" language "was not as much an intentional choice of verb tense on the part of the Examiner, as a typographical error."[6] However, the petition fails to explain how a typographical error, such as striking the incorrect key on a keyboard, could result in an examiner typing the phrase "will be" when attempting to type a phrase such as "is being" or "is hereby."

The petition asserts, "Applicant [cannot] control the Examiner's grammatical idiosyncrasies."[7] However, the petition fails to demonstrate the examiner's use of the phrase "will be" is the result of a grammatical idiosyncrasy. The use of the phrase "will be" is commonly used in front of verbs to change the tense of the verbs.

In view of the prior discussion, the Office is not persuaded the December 23, 2009 interview summary indicated the final Office was withdrawn, rather than indicating the Office action would be withdrawn. Therefore, the holding of abandonment will not be withdrawn.

The Office mailed a decision dismissing a prior petition on April 27, 2011. The decision stated,

> Even if the interview summary had stated the final Office action "is hereby withdrawn," the petition could not be granted for two reasons. First, the examiner did not mail an *official* copy of the interview summary until December 30, 2009, which was more than six months after the date the final Office action was mailed. Second, an interview summary form may not be used to replace the need for an examiner to issue an Office action or notice. Instead, the interview summary form may only be used to summarize an interview.

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[5] *Ibid.*

[6] *Id.* at 3.

[7] *Id.* at 4.

The instant petition asserts the copy of the interview summary sent December 23, 2009, was an *official* communication, and that the December 30, 2009 interview summary was merely a "second, confirmatory copy."

As previously discussed, the interview summary did not state the final Office action was being withdrawn. Therefore, the Office does not need to determine the extent to which an examiner can withdraw an Office action via the facsimile transmission of a copy of an interview summary form to be mailed in the future.

The "Conditional Petition" in Footnote 1

The petition alleges, during the December 23, 2009 interview, the examiner stated he had previously delayed withdrawing the final Office action because he was concerned taking such an action might have a negative impact on his ability to obtain partial signatory authority.

The petition states,

> Should this petition be denied in any respect, conditional petition is made to the Director for a question not specifically provided for -- that question being, "*Should the holding of abandonment in this application be withdrawn because* the examiner's admitted fears regarding the possible promotion did not justify (1) the admitted intentional delay in issuing a new Office action, and (2) the ultimate abandonment of the application?"[8]

The "conditional petition" is simply a continuation of Applicants' arguments that the holding of abandonment should be withdrawn. Therefore, the "conditional petition" is actually part of the petition under 37 C.F.R. § 1.181.

In essence, the "conditional petition" argues:

1. The holding of abandonment should be withdrawn because "the examiner's admitted fears regarding the possible promotion did not justify ... the admitted intentional delay in issuing a new Office action"; and
2. The holding of abandonment should be withdrawn because "the examiner's admitted fears regarding the possible promotion did not justify ... the ultimate abandonment of the application."

Withdrawal of the holding of abandonment is only proper if an application is not actually abandoned. The allegation concerning the examiner's conduct, even if true, does not establish the application never actually became abandoned.

As previously stated, the application is abandoned as a matter of law unless:

1. A proper reply was timely filed in response to the June 23, 2009 final Office action, or

[8] June 27, 2011 Petition, n. 1 (emphasis added in italics).

2. The Office withdrew the June 23, 2009 Office action on or before December 23, 2009.

Applicants have not demonstrated a proper reply was timely filed in response to the June 23, 2009 final Office action, or demonstrated the Office withdrew the June 23, 2009 Office action on or before December 23, 2009. Therefore, the application is abandoned as a matter of law.

In view of the prior discussion, the holding of abandonment will not be withdrawn based on the allegations set forth in the conditional petition.

The Petition under 37 C.F.R. § 1.137(b)

The petition requests relief under 37 C.F.R. § 1.137(b) if the petition under 37 C.F.R. § 1.181 is not granted.

A grantable petition under 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.[9]

The petition satisfies the requirements of 37 C.F.R. § 1.137(b) in so far as petitioner has supplied (1) a reply in the form of a request for continued examination, (2) the required petition fee of $1,620, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

The Office has charged Deposit Account No. 14-1140 the sum of $810 for the request for continued examination and the sum of $1,620 for the required petition fee.

Technology Center Art Unit 3687 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[9] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

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Paper No.

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MAR 14 2011

OFFICE OF PETITIONS

SALVATORE J. CALAIO
1808 PENINSULA DRIVE
ARCATA CA 95521

In re Patent No. 7,106,685 :
Issue Date: 09/12/2006 :
Application Number: 10/283,564 : LETTER DISMISSING PETITION
Filing Date: 10/29/2002 :
Attorney Docket Number: P001 :
:

This is a letter in reference to the papers filed on January 24, 2011, which are treated as a petition under 37 CFR 1.377 to review the refusal of the Office to accept a timely-filed maintenance fee payment for the above-referenced patent.

The petition is **dismissed.**

The subject patent issued on September 12, 2006. On September 12, 2009, the window for payment of the first maintenance fee opened. The maintenance fee was due with a surcharge on March 13, 2010. On September 12, 2010, the window for payment of the maintenance fee with a surcharge closed.

Petitioner, *pro se*, asserts that the entire amount due ($555.00) was filed in the USPTO prior to the date the patent expired.

Petitioner's evidence has been considered, but is not persuasive. A review of Office financial records reveals that on September 9, 2010, $550.00 was received. On September 9, 2010, the Office mailed a Notice of Non-Acceptance of Patent Maintenance Fee, stating that the payment was not accepted because an additional amount of $5.00 is/was required. Petitioner was apprised in the Notice mailed on September 9, 2010, that the window for payment of the maintenance fee (*i.e.*, the "grace period") ended on September 13, 2010.

Petitioner has further presented a copy of a money order, dated October 6, 2010, for $5.00, as well as a copy of a certified mail receipt with a postmark dated October 7, 2010, and a receipt date by the USPTO of October 8, 2010.

As such, the showing of record is that the entire amount due for the maintenance fee and surcharge (*i.e.*, $555.00) was not received in the Office on or before September 12, 2010, the date the window for acceptance of the payment closed, in that the $5.00 deficiency was not received until after September 12, 2010. Rather, the entire amount due (*i.e.*, $555.00) was not submitted until at least October 7, 2010, after the window for acceptance of the maintenance fee with a surcharge had closed. Accordingly, a timely proffer of the maintenance fee and surcharge was not made, and the patent expired for failure to timely submit the maintenance fee and late-payment surcharge. Accordingly, the petition is dismissed.

MPEP 2530 states:

> Examples of when a payment of maintenance fees and any necessary surcharges will be considered to be late or insufficient include instances when:
> (A) Though a payment was received, additional funds are required due to surcharge or fee increase;
> (B) Though a payment was received in an amount for small entity, the patented file records do not indicate that an assertion of small entity status was received; or
> (C) The payment was received after the patent expired.
>
> If the Office considers a payment to be late or insufficient, a notice (e.g., a Notice of Non-Acceptance of Patent Maintenance Fee (PTO-2142)) will be sent to the "fee submitter." Reply to the notice is required prior to expiration of the grace period provided by 37 CFR 1.362(e) in order to avoid the expiration of the patent. *If a reply is not received prior to expiration of the patent, then an appropriate petition under 37 CFR 1.377 or 37 CFR 1.378 is required. See MPEP § 2580 and § 2590.*
>
> (emphasis added)

Accordingly, the patent became expired at the end of the six (6) month grace period for submitting the 3 ½ year fee.

As such, petitioners should consider submitting a petition to reinstate the patent under 37 CFR 1.378(b) and/or 1.378(c).

As this petition resulted from an error on the part of patentee in not submitting the proper maintenance fee amount, the $200.00 set forth in § 1.17(g) is due and will be not be refunded. This amount will be deducted from the $555.00 submitted with the present petition.

Any renewed petition should be submitted within **TWO (2) MONTHS** to be considered timely. This period is **NOT** extendable.[1]

ALTERNATE VENUE

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period (e.g., the expiration date of the patent and be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, (3) payment of the $1,640.00 surcharge set forth in 37 CFR 1.20(i)(2). The statement can be verified by using the attached petition form which includes a declaration according to 37 CFR 1.68.

Accordingly a total of **$1,775.00** will be due with a petition under 37 CFR 1.378(c). ($1640.00 surcharge for acceptance of the petition plus $135.00 towards the $490.00 maintenance fee ($555.00 previously submitted, less $200.00 due for the subject petition).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the patent was expired until the filing of the petition to reinstate under 37 CFR 1.378(c), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.378(c).

---

[1] 37 CFR 1.181(f).

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

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

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

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

A reply may also be filed via the EFS-Web system of the USPTO.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/66

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

MAILED

OCT 26 2010

OFFICE OF PETITIONS

HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY NY 12207

In re Patent No. 7,767,230	:	DECISION ON REQUEST
Ahlheim et al.	:	FOR
Issue Date: August 3, 2010	:	RECONSIDERATION OF
Application No. 10/283,989	:	PATENT TERM ADJUSTMENT
Filed: October 30, 2002	:	and
Atty Docket No. VAND-0021-US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition pursuant to petition under 37 CFR 1.705(d), filed on October 1, 2010. Patentee has requested that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and twelve (1,112) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred and sixty-four (664) days is **GRANTED to the extent indicated herein.**

Patentee has indicated that his patent is not subject to a terminal disclaimer.[1]

The period of examination delay of 660 days is not in dispute.[2]

The period of applicant delay of 360 days is not in dispute.[3]

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[1] Petition, page 3.
[2] Id. at 2.
[3] Id. at 3.

The fact that an RCE was filed three years and 364 days after the filing of this application is not in dispute.[4]

The period of "B-delay" is 364 days. Patentee would have the Office accord an additional 448 days for failure to issue the patent within three years,[5] and has cited to 35 U.S.C. § 154(b)(1)(B). However, the Office holds that **the filing of a Request for Continued Examination (RCE) cuts off the period of B-delay:** Petitioner will note that 35 U.S.C. § 154(b)(1)(B)(1) explicitly excludes "any time consumed by continued examination of the application requested by the applicant under section 132(b)."

Pursuant to 37 C.F.R. § 1.702(b)(1):

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

Pursuant to 37 C.F.R. § 1.703(b)(1):

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Hence, **when calculating the number of days the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed, any days that occurred subsequent to the filing of the RCE are not considered.** In this instance, the

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[4] Id. at 2.

[5] See petition, page 4.

application was filed on October 30, 2002, and on October 30, 2006, the first RCE was filed. The period from the filing date of the RCE to the issue date of the patent is not included in the "B" delay period: the over three year period begins on October 30, 2005 and ends on October 29, 2006, the day before the first RCE was filed, which amounts to 364 days. See U.S.C. 154(b)(1)(B)(i).

As such, the patent term adjustment is increased by 664 (660 examination delay - 360 applicant delay + 364 "B-delay") days, not 1,112 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred and sixty-four (664) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,767,230 B2

DATED : **August 3, 2010** **DRAFT**

INVENTOR(S) : Ahlheim et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 605 days

Delete the phrase "by 605 days" and insert – by 664 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/284,063	10/29/2002	Robert S. Kieval	3511.150US01	9506

24113 7590 04/05/2011

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER
BERTRAM, ERIC D

ART UNIT	PAPER NUMBER
3766	

MAIL DATE	DELIVERY MODE
04/05/2011	PAPER

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

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10284063	10/29/2002	KIEVAL ET AL.	3511.150US01

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER	
Eric D.. Bertram	
ART UNIT	**PAPER**
3766	20110404

DATE MAILED:

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

Commissioner for Patents

In view of the papers filed 7/6/2009, the inventorship in this nonprovisional application has been changed by the deletion of Martin A. Rossing.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

See updated and attached BIB data sheet.

/Eric D. Bertram/
Primary Examiner, Art Unit 3766

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAYER BROWN, LLP
PO BOX 2828
CHICAGO, IL 60690

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SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Yon So Chong
Application No. 10/284,150
Filed: October 31, 2002
Attorney Docket No. P68278US0

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JAN 19 2011

OFFICE OF PETITIONS

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW
SUITE 1200
WASHINGTON DC 20006-1109

In re Patent No. 7,689,504 :
Warren, et al. :
Issue Date: March 30, 2010 : DECISION ON
Application No. 10/284,394 : PATENT TERM ADJUSTMENT
Filed: October 31, 2002 :
Attorney Docket No. 47004.000168 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed May 28, 2010, and supplemented on December 22, 2010. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand seven hundred two (1702) days to one thousand seven hundred three (1703) days.

The application for patent term adjustment is **DISMISSED**.

On March 30, 2010, the above-identified application matured into U.S. Patent No. 7,689,504 with a patent term adjustment of 1702 days. On May 28, 2010, patentees timely filed the instant request for reconsideration of patent term adjustment. Patentees argue that the patent term adjustment should be 1703 days, because the Office erred in according 1032 days of PTO delay for failing to issue the patent within three years. Patentee asserts that the three year delay should be 1033 days, because the year 2008 was a leap year.

The application was filed on October 31, 2002. Accordingly, the three year delay period began on November 1, 2005, and ended on August 28, 2008 (Applicants filed an RCE on August 29, 2008). See 37 CFR 1.703(b)(1). In view thereof, the three year day was properly calculated as 1032 days.

In addition, a review of the file reveals that Patentees should have been assessed additional delay pursuant to 37 CFR 1.704(c)(8). Applicants filed an RCE on August 11, 2009. Subsequently, Applicants filed an IDS on September 29, 2009. Accordingly, forty-nine (49) days of Applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(8) for the filing of this supplemental paper.

In view thereof, the correct determination of PTA at the time of issuance is **one thousand six hundred fifty-three (1653)** days (1702 days of PTO delay, reduced by 49 days of Applicant delay).

The file is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **one thousand six hundred fifty-three (1653)** days.

Receipt of the $200 fee under 37 C.F.R. §1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,689,504 B2

DATED : **March 30, 2010**

INVENTOR(S) : Warren et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1702 days.

Delete the phrase "by 1702 days" and insert – by 1653 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE of DATA MANAGEMENT

INNOVAR, LLC
P O BOX 250647
PLANO TX 75025

FEB 03 2011

In re Application of
PRYCE LEWIS, WENDY E. et al.
Application No. 10/284,430
Filed: October 29, 2002
Attorney Docket No.: MIT-AP-5

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on January 10, 2011.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed September 16, 2010. The Notice of Abandonment mailed on December 30, 2010 indicates, "The submitted fee of $1510 is insufficient. A balance of $300 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on December 13, 2010 authorizing that the Issue Fee be charged to Deposit Account No. 50-1527. On December 13, 2010 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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INNOVAR, LLC
P O BOX 250647
PLANO, TX 75025

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application of
Wendy E. Pryce Lewis, et al.
Application No. 10/284,430
Filed: October 29, 2002
Attorney Docket No.: MIT-AP-5

ON PETITION

This is a decision on the petition, filed February 14, 2011 and supplement on February 22, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Rick Matos appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fee and publication fee on or before December 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 16, 2010. A Notice of Abandonment was subsequently mailed on December 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104-3800

MAILED

FEB 15 2011

PCT LEGAL ADMINISTRATION

In re Application of :
BACON et al :
Application No.: 10/284,598 : DECISION ON PETITION
Filing Date: October 31, 2002 : UNDER 37 CFR 1.78
Attorney Docket No.: 03706.002005 :

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed September 15, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed December 11, 2008.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an acceptable statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that any Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1747 for appropriate action.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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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MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Sohrabi et al.	:	
Application No. 10/284,718	:	DECISION ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 1.M833.2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed November 9, 2009. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on March 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 3693 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HITT GAINES, PC
ALCATEL-LUCENT
PO BOX 832570
RICHARDSON TX 75083

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of :
Vincent Mouilleron et al. :
Application No. 10/284,858 : DECISION ON PETITION
Filed: October 31, 2002 :
Attorney Docket No. 135996 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before January 8, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 8, 2008. Accordingly, the date of abandonment of this application is January 9, 2009. A Notice of Abandonment was mailed on February 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120312

DATE : March 22, 2012

TO SPE OF : ART UNIT 3627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,627,504 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

"a source database storing data" is significantly narrower than "a source database for storing data", as proposed by applicant. The request would change the scope of the claim.

SPE: /F. Ryan Zeender/ **Art Unit** 3627

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

March 22, 2012

Patent No.: 7,627,504 B2
Applicant : Kevin P. Brady, et al.
Issued : December 1, 2009
For : **INFORMATION PROCESSING SYSTEM FOR DETERMINING TAX INFORMATION**
Docket No. : **580-P-001**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322/1.323.

Respecting the alleged errors in claims 1, 18, 19 and 20 in the printed patent. The instance "a source database storing data" is significantly narrower than "a source database for storing data", as proposed by applicant. Making this change would change the scope of the claims. Therefore, the applicant's request to change the text to read "a source database storing data" in the above mentioned claims is disapproved.

In the foregoing, your request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Antonio Johnson
(571)272-0483
For Mary F. Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580

Miskin & Tsui-Yip LLP
1350 Broadway, Suite 802
NEW YORK NY 10018

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7089054
Issue Date: August 8,2006
Application No. 10285313
Filed: October 31,2002
Attorney Docket No. 4262/1L735-US1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 15,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 15,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7089054	2006-08-08	10285313	2002-10-31	65842-015

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert S. Mayer/	Date (YYYY-MM-DD)	2010-10-15
Name	Robert S. Mayer	Registration Number	38544

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,781,413	:	ON PETITION
Issue Date: August 24, 2010	:	
Application No. 10/285,351	:	
Filed: October 31, 2002	:	
Attorney Docket No. UTSD:879US/10212326	:	

This is a decision on the petition filed August 25, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/285,592	11/01/2002	Corinne Le Buhan	3829-007-27	1635

24510 7590 04/12/2011

DLA PIPER LLP (US)
ATTN: PATENT GROUP
P.O. Box 2758
Reston, VA 20195

EXAMINER	
TESLOVICH, TAMARA	
ART UNIT	PAPER NUMBER
2437	

MAIL DATE	DELIVERY MODE
04/12/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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James Heintz
DLA Piper LLP (US)
ATTN:Patent Group
P.O. Box 2758
Reston VA 20195

In re Application of:
Buhan et al.
Application No. 10/285592
Filed: November 1, 2002
For: Secured Storage Method of Encrypted Data on a Personal Digital Recorder

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed January 25, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner to ensure that the examiner treats the limitations identified by the examiner as being new matter when making a prior art rejection, ensure that the examiner responses to all attorney arguments, that the examiner be instructed to refrain from unwarranted comments dealing with breached courtesy or decorum and to stop making rejections where the examiner simply repeats claim language and includes a cited portion of the reference without any explanation as to what in the reference corresponds to the claimed elements.

On pages 2-4 of the petition an allegation is made that the examiner has failed to examiner treat the limitations identified by the examiner as being new matter when making a prior art rejection. The limitation allegedly not treated on art are "encrypting in the security unit the at least one system key with a predefined local key contained in the security unit" and "the security unit having a memory separate from the local storage unit and separate from any memory in the receiver/decoder unit". A review of the art rejection of the most recent office action clearly shows the second to last paragraph of page 14 of the office action and on the first paragraph of page 15 of the office action of where the prior art teaches these features. There may be some confusion over the paragraph of the examiners office action cited on page 3 of the petition. The examiner is not saying the claim features will not be considered versus the prior art, the examiner is stating until such a time that clarity of the claim and the new matter issue is cleared up the examiner is maintaining the art rejection on the unamended features of the claims.

On page 5 of the petition an allegation is made that the examiner has not responded to all attorney arguments in particular the examiner has not responded to how Wasilewski device storing any encrypted content on the hard drive. The bottom 2 lines of page 14 of the office action clearly discusses storing of encrypted content and pages 10-11 discuss the hard drive features. Additionally, page 3 of the office action, the second paragraph also discusses the hard drive.

On page 6 of the petition a request is made that the examiner be instructed to refrain from making unwarranted comments about "reminders" to remain professional and to comply with 37 CFR 1.3. The examiner will be instructed as such.

On the bottom of page 6 of the petition a request is made to instruct the examiner to set forth some basis for the assertion as to how lines 13-30 of column 10 of Wasilewksi teaches claim 23 as the quoting of claim language and citing of portion of the reference without any explanation make the rejection difficult to understand. This request is not a petitionable request as the examiner has stated how the claim is taught. If petitioner feels this feature is not taught by the cited portion of the reference an appeal or a response under 1.111 is the proper avenue to pursue this matter.

Accordingly, the petition is **DISMISSED in part.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612. A second point of contact is QAS Kim Huynh who can be reached at (571) 272-4147.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Patent No. 6,846,301 :
Issue Date: January 25, 2005 :
Application No. 10/285,904 : ON PETITION
Filed: November 1, 2002 :
Patentee(s) Martin E. Smith et al :

This is a decision on the petition under 37 CFR 1.378(c), filed July 1, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Ron Wheet, CEO
Revolutions Medical Inc.
670 Marina Drive, 3rd Floor
Charleston, SC 29492

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Patent No. 6,846,301 :
Issue Date: January 25, 2005 :
Application No. 10/285,904 : ON PETITION
Filed: November 1, 2002 :
Attorney Docket No. 097536-0123 :

This is a decision on the petition under 37 CFR 1.182, filed August 11, 2010 to expedite the petition previously filed on July 1, 2010.

The petition is **GRANTED.**

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/285,989	10/31/2002	Jin Li	CA920020017US1	3673

48916 7590 10/13/2011

Greg Goshorn, P.C.
9600 Escarpment
Suite 745-9
AUSTIN, TX 78749

EXAMINER
RUTTEN, JAMES D

ART UNIT	PAPER NUMBER
2197	

MAIL DATE	DELIVERY MODE
10/13/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JIN LI

Appeal 2008-004203
Application 10/285,989
Technology Center 2100

DECISION ON PETITION

This is a decision on the renewed "Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed October 21, 2010 (Petition).

See 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On April 28, 2006, Appellant filed an Amendment, inter alia, amending claim 14.

2. On January 24, 2007, Appellant filed an Appeal Brief, including a Claims Appendix in which claim 14 did not match the claim as amended in the Amendment of April 28, 2006.

3. On July 6, 2009, the Examiner entered a Notification of Non-Compliant Appeal Brief specifically pointing out that claim 14 as presented in the Claims Appendix of the Brief did not match the claim as amended in the Amendment of April 28, 2006.

4. On August 4, 2009, Appellant filed a Substitute Appeal Brief that did not correct claim 14.

5. On November 5, 2009, the Examiner entered a Notice of Abandonment pointing out the continuing inconsistency of claim 14 as amended by the Amendment of April 28, 2006, and as presented in the Claims Appendix of the Substitute Brief.

6. On November 27, 2009, Appellant filed a first "Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b)" and a second Substitute Appeal Brief that again did not correct claim 14.

7. On September 24, 2010, the Board entered a decision denying the first "Petition to Revive" without prejudice to Appellant filing a renewed petition that complies with Rule 1.137(b).

8. On October 21, 2010, Appellant filed the present renewed Petition and a third Substitute Appeal Brief.

9. With respect to the revival of an unintentionally abandoned application, 37 C.F.R. § 1.137(b) provides that:

> (b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a

reexamination prosecution terminated under § 1.550(d) or § 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

10. The renewed Petition to Revive filed October 21, 2010, was accompanied by:

(a) an Appeal Brief;

(b) the Petition fee; and

(c) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

11. There are no facts known by the Office that would cause the Office to question whether either the abandonment or delay in filing the Petition to Revive was unintentional.

12. Since the application was filed after June 8, 1995, on October 31, 2002, no terminal disclaimer is required.

13. A review of the third Substitute Appeal Brief filed on October 21, 2010, indicates that it is in compliance with 37 C.F.R. § 41.37.

DISCUSSION

As indicated above, Appellant has complied with all of the requirements of a petition under 37 C.F.R. § 1.137(b) for revival of an unintentionally abandoned application.

DECISION

In view of the foregoing, the "Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed October 21, 2010 is GRANTED.

The third Substitute Appeal Brief of October 21, 2010 will be entered. Because the appeal has already been docketed at the Board, the appeal will be returned to the Board to be assigned to a merits panel for a decision on the merits.

Merrell C. Cashion, Jr.
Case Management Administrator

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE LAW OFFICE OF JAMES E. HARRIS
20320 SE FERNRIDGE DRIVE
CAMAS, WA 98607

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,284,074
Issue Date: October 16, 2007
Application No. 10/286,361
Filed: October 31, 2002
Attorney Docket No. 3981-14

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642

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

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6994661	2006-02-07	10286519	2002-11-01	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
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○	7 ½ year	(1552)	○	7 ½ year	(2552)
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SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Matthew F. Dawson/	Date (YYYY-MM-DD)	2010-09-01
Name	Matthew F. Dawson		
Enter Reel and Frame Number		Remove	
Reel Number	018047	Frame Number	0323
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6994661
Issue Date: February 7,2006
Application No. 10286519
Filed: November 1,2002
Attorney Docket No. RSFD7

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 1,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Patent of Jiang :
Patent No. 7,254,143 :
Issued: August 7, 2007 :
Application Number: 10/286,588 :
Filed: November 1, 2002 :
Attorney Docket Number: ASTP0241USA // 1291-001.801 (0900058-US)

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on February 2, 2011.

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

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

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: SANG N. DANG
KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVE., SUITE 725
IRVINE, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7034012
Issue Date: April 25,2006
Application No. 10286684
Filed: November 1,2002
Attorney Docket No. RATH-003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 16,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 16,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7034012	2006-04-25	10/286,684	2002-11-01	RIPLLC018.008US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Geeta Kadambi/	Date (YYYY-MM-DD)	2011-06-16
Name	GEETA KADAMBI	Registration Number	64446

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

31 AUG 2010

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

Sterne, Kessler, Goldstein & Fox, P.L.L.C.
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

In re Application of :
MANTYLA, et al. :
Application No.: PCT/FI97/00037 :
Filing Date: 24 January 1997 : DECISION
Attorney's Docket No.: 1716.034PC04/MAC :
For: PRODUCTION AND SECRETION OF :
PROTEINS OF BACTERIAL ORIGIN IN :
FILAMENTOUS FUNGI :

This is in response to applicant's petition under 37 CFR 1.182 filed 07 April 2010 in the United States Patent and Trademark Office (USPTO) seeking to amend an international application to add in benefit claims under 35 U.S.C. 120. The petition fee has been paid.

BACKGROUND

On 24 January 1997, applicants filed international application number PCT/FI97/00037. This application claimed priority to United States application serial number 08/590,563 filed 26 January 1996. Applicants did not enter the U.S. National phase under 35 U.S.C. 371. Accordingly, the international application became abandoned on 26 July 1999.

On 07 April 2010, applicants filed the instant petition seeking to revive international application number PCT/FI97/00037 for the sole purpose of amending page one of the specification to recite the benefit claim detailed in the supplemental box which accompanies the petition.

DISCUSSION

The instant petition requests that international application PCT/FI97/00037 be revived so as to be amended to include benefit claims to the applications detailed on the supplemental Request sheet and substitute description sheet contemporaneously filed with the present petition.

International application PCT/FI97/00037 was filed before 29 November 2000 and therefore is not subject to the American Inventor's Protection Act vis-a-vis late benefit claims. A petition under 37 CFR 1.182 is an appropriate vehicle for amending an abandoned intermediate application for purposes of claiming benefit under 35 U.S.C. 120 to an earlier filed application.

(See *Sampson v. Commissioner of Patents and Trademarks*, 195 USPQ 136). It is not necessary that the international application be revived.

The petition filed 07 April 2010 is proper and international application PCT/FI97/00037 is amended to include the benefits claims detailed in the accompanying amendment to the description and Request.

CONCLUSION

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

The amendments to international application PCT/FI97/00037 to include the benefit claims under 35 U.S.C. 120 to the prior filed U.S. nonprovisional applications identified in the supplemental sheet of the Request and substitute description sheet are approved.

Because the Office does not have a separate application file for PCT/FI97/00037 this decision and the petition filed 07 April 2010 will be placed in the bypass application, U.S. application 10/286,993.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 4, 2010

TO SPE OF : ART UNIT 3738
SUBJECT : Request for Certificate of Correction for Appl. No /10/287286 patent 6945993

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ▒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Suzette J-J Gherbi/ 8/27/10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAROLYN S. ELMORE
ELMORE PATENT LAW GROUP, P.C.
209 MAIN STREET
N. CHELMSFORD MA 01863

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of :
Jonathan S. DORDICK et al. :
Application No. 10/287,442 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,267,958 :
Filed: November 01, 2002 :
Attorney Docket No. 3230.1001-001

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **KENDAL M. SHEETS**
CPA GLOBAL
2318 MILL ROAD
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 09 2011

OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of	:	
Robert W. RATTE	:	DECISION ON PETITION
Application No. 10/288,136	:	UNDER 37 CFR 1.137(b)
Filed: November 5, 2002	:	
Atty. Docket No.: 5702	:	

This is a decision on the petition filed June 2, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. The delay in rendering a decision on the petition is regretted.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 21, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 1.22(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multilateral treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. The application was published on January 1, 2004.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

for David Bucci
Petitions Examiner
Office of Petitions

cc: Carl L. Johnson
Jacobson and Johnson
Suite 285
One West Water Street
St. Paul, Minnesota 55107-2080

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 27, 2011

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No 10/288231.: 7625382 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Anhtuan T. Nguyen/ **3779**
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

In re Patent No. 6,946,458
Issue Date: September 20, 2005
Appl. No: 10/288,897
Filed: November 05, 2002
For: Correction of Inventorship

This is a decision on the petition filed February 17, 2010, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

James O. Wilson

James O. Wilson
Supervisory Patent Examiner Art Unit 1624
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6908264
Issue Date: June 21,2005
Application No. 10288922
Filed: November 6,2002
Attorney Docket No. GUNDY-006XX

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 4,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 4,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6908264	2005-06-21	10288922	2002-11-06	PSG0085

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Adam F. Cox/	Date (YYYY-MM-DD)	2011-01-04
Name	Adam F. Cox	Registration Number	46644

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL MN 55120

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of
Andrew HORCH et al.
Application No. 10/288,927
Pat. No. 6,980,457
Filed: November 06, 2002
Attorney Docket No. TRAM.020PA

NOTICE UNDER 37 CFR. 1.28(c)

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

37 CFR 3.71(c) states:

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

The itemization must be provided within one (1) month from the date of this decision to avoid the return of the deficiency.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **WESLEY E. WEBOSTAD**
THE WEBOSTAD FIRM, A PROFESSIONAL CORPORATION
150 NORTH WIGET LANE
SUITE 200
WALNUT CREEK, CA 94598

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CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL MN 55120

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Andrew HORCH et al. :
Application No. 10/288,927 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 6,980,457 :
Filed: November 06, 2002 :
Attorney Docket No. TRAM.020PA

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **WESLEY E. WEBOSTAD**
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UNITED STATES PATENT AND TRADEMARK OFFICE

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1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL MN 55120

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Andrew HORCH et al. :
Application No. 10/288,953 : NOTICE UNDER 37 CFR. 1.28(c)
Pat. No. 6,965,129 :
Filed: November 06, 2002 :
Attorney Docket No. **TRAM.009PA**

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

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> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

37 CFR 3.71(c) states:

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The itemization must be provided within one (1) month from the date of this decision to avoid the return of the deficiency.

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Thurman K. Page
Petitions Examiner
Office of Petitions

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JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Andrew HORCH et al. :
Application No. 10/288,953 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 6,965,129 :
Filed: November 06, 2002 :
Attorney Docket No. TRAM.009PA

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Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **WESLEY E. WEBOSTAD**
THE WEBOSTAD FIRM, A PROFESSIONAL CORPORATION
150 NORTH WIGET LANE
SUITE 200
WALNUT CREEK, CA 94598

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,264,427	2007-09-04	10288955	2002-11-06	PPAS-1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tasha R. Kelley, Reg. No. 67,341/	Date (YYYY-MM-DD)	2011-11-02
Name	Tasha R. Kelley	Registration Number	67341

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 7264427
Issue Date: September 4,2007
Application No. 10288955
Filed: November 6,2002
Attorney Docket No. PPAS-1/402

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 2,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 2,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUITER SWANTZ PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of :
Edwin C. Iliff :
Application No. 10/289533 :
Filing or 371(c) Date: 11/05/2002 : ON PETITION
Pat. Num.: 6746399 :
Issue Date: 06/08/2004 :
Title of Invention: :
AUTOMATED DIAGNOSTIC SYSTEM :
AND METHOD INCLUDING ENCODING:
PATIENT DATA :

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARLA G. WILSON
3401 LISMORE DRIVE
CONYERS GA 30012

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Patent No. 6,899,335	:	
Issue Date: May 31, 2005	:	
Application No. 10/289,556	:	DECISION ON PETITION
Filed: November 07, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), originally filed July 20, 2009 and resubmitted August 31, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 31, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROOKE SCHUMM III
DANEKER, MCINTIRE,
SCHUMM, PRINCE, GOLDSTEIN ET AL
ONE NORTH CHARLES STREET
SUITE 2450
BALTIMORE MD 21201

MAILED

SEP 12 2011

OFFICE OF PETITIONS

In re Application of :
Guilford, et al. :
Application No. 10/289,934 : DECISION
Filed: 7 November, 2002 :
Attorney Docket No. GLFD-02-004 ::

This is a decision on the petition filed on 19 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b) .

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

As to Allegation of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement/showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(b).

BACKGROUND

Applicant(s) failed to reply timely and properly to the final Office action mailed on 19 January, 2011, with reply due absent extension of time on or before 19 April, 2011.

The application went abandoned by operation of law after midnight 19April, 2011.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 18 August, 2011, Petitioner filed a Notice of Appeal and fee.

On 19 August, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an Appeal Brief and fee, and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1616 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

MAILED
JAN 07 2011
OFFICE OF PETITIONS

In re Application of :
Daniel Mahgerefteh et al. :
Application No. 10/289,944 : NOTICE
Patent No. 6,963,685 :
Filed: November 06, 2002 :
Attorney Docket No. **15436.1248.79.1**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ADAMS AND REESE, L.L.P.
4500 ONE SHELL SQUARE
NEW ORLEANS LA 70139-4596

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Patent No. 6,763,882	:	
Issue Date: July 20, 2004	:	
Application No. 10/290,141	:	NOTICE
Filed: November 7, 2002	:	
Attorney Docket No. 65390/S1358	:	

This is a notice regarding your request, September 26, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: CHRISTIE, PARKER & HALE, LLP
POST OFFICE BOX 7068
PASADENA, CA 91109-7068

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

OCT 28 2010

OFFICE OF PETITIONS

In re Application of :
Gregory Paul Winter et al. :
Application No. 10/290,233 : DECISION ON PETITION
Filed: November 8, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BJS-620-225 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed PCT application set forth in the amendment filed with the petition.

The renewed petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The initial petition filed April 24, 2008 was dismissed in a decision mailed October 23, 2009 for failure to satisfy item (1) due to improper incorporation by reference in the amendment to the specification.

The renewed petition still does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly

incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective, because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). **If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application.** See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).improperly incorporates by reference the prior-filed application.

Petitioner avers that the specification of the PCT application is the same as the specification of application SN 07/580,374 which is already incorporated by reference. From this, petitioner argues that no new matter was added by incorporation by reference of the PCT application. The emphasized language above clearly indicates that incorporation by reference after filing of the application is not proper. Petitioner's discussion as to whether the specifications are the same or whether new matter was in fact added by such an incorporation does not address the specific requirement of no incorporation by reference after filing of the application.

For this reason, the renewed petition is dismissed.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of :
Gregory Paul Winter et al. :
Application No. 10/290,233 : DECISION ON PETITION
Filed: November 8, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BJS-620-225 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 1, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/GB89/01344, filed November 13, 1989, as set forth in the accompanying amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1636 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/290,233	11/08/2002	1636	5046	BJS-620-225	10	1

CONFIRMATION NO. 1662

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

CORRECTED FILING RECEIPT

Date Mailed: 08/08/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Gregory Paul Winter, Cambridge, UNITED KINGDOM;
Elizabeth Sally Ward, Cambridge, UNITED KINGDOM;
Detlef Gussow, Cambridge, UNITED KINGDOM;

Assignment For Published Patent Application

Medical Research Council

Power of Attorney:

B Sadoff--36663

Domestic Priority data as claimed by applicant

This application is a CON of 09/722,364 11/28/2000 PAT 6,545,142
which is a CON of 08/470,031 06/06/1995 PAT 6,248,516
which is a DIV of 08/332,046 11/01/1994 ABN
which is a CON of 07/796,805 11/25/1991 ABN
which is a DIV of 07/580,374 09/11/1990 ABN
which is a CON of PCT/GB89/01344 11/13/1989

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

UNITED KINGDOM 8826444.5 11/11/1988
UNITED KINGDOM 8906034.7 03/16/1989
UNITED KINGDOM 8909217.5 04/22/1989
UNITED KINGDOM 8911047.2 05/15/1989
UNITED KINGDOM 8912652.8 06/02/1989
UNITED KINGDOM 8913900.0 06/16/1989
UNITED KINGDOM 8918543.3 08/15/1989

UNITED KINGDOM PCT/GB89/01344 11/13/1989

If Required, Foreign Filing License Granted: 01/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/290,233**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SINGLE DOMAIN LIGANDS, RECEPTORS COMPRISING SAID LIGANDS, METHODS FOR THEIR PRODUCTION, AND USE OF SAID LIGANDS AND RECEPTORS

Preliminary Class

530

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific

countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

APR 05 2011

PCT LEGAL ADMINISTRATION

In re Patent no.: 7,306,907
Issue Date: December 11, 2007
Application No. 10/290,252
Filed: November 08, 2002
Attorney Docket No. BJS-620-226

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 24, 2008, seeking to correct a claim for priority by way of a Certificate of Correction to prior-filed International Patent Application PCT/GB1989/001344, filed November 13, 1989.

The petition is DISMISSED.

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii). Accordingly, the present application is properly considered under 37 CFR 1.78(a)(3). See MPEP section 1481.03.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present petition fails to comply with item (1) above.

The reference to add the prior-filed application on the Certificate of Correction is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Further, applicant has not submitted an amended specification or an Application Data Sheet for nonprovisional application no. 10/290,252. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

Lastly, the filing date for international application number PCT/GB89/01344, listed in the certificate of correction, should be corrected to read November 13, 1989.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

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
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/15/2011

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/290852 Patent No.: 7306901 B2

CofC mailroom date: 8/1/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

SPE

1636
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,861,471 :
Issued: January 4, 2011 :
Application No. 10/290,548 : NOTICE
Filed: November 8, 2002 :
Attorney Docket No. 76213.0011 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 9, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAY 16 2011

OFFICE OF PETITIONS

LABORATORY CORPORATION OF AMENRICA HOLDINGS
c/o KILPATRICK TOWNSEND & STOCKTON, LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

In re Application of :
Peter DEHLINGER, et *al.* :
Application No. 10/290,575 : NOTICE
Filed: November 8, 2002 :
Attorney Docket No. **099.01US** :

This is in response to the paper filed April 22, 2011 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

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

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MOTOROLA, INC.
PATENT OPERATIONS LAW DEPARTMENT
600 NORTH US HIGHWAY 45
IL93-W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of :
Krit Panusopone, et al. :
Application No. 10/290,843 : DECISION ON PETITION
Filed: November 7, 2002 :
Attorney Docket No. 80113-0335 (D2958.1) :

This is a decision on the petition, filed June 26, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before May 7, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 7, 2007.

Petitioner asserts that the Notice dated February 7, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item 3 of the above-stated requirements. In this regard, petitioner failed to submit a copy of the required master docket records where the non-received Notice would have been entered had it been received.

Accordingly, absent the required evidence to establish non-receipt of the Notice of Allowance and Issue Fee(s) Due, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

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

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

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

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

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P.O. BOX 224
MONROE, CT 06468

MAILED

SEP 28 2011

OFFICE OF PETITIONS

In re Application of :
Ganesh Sivaraman, et. al. :
Application No. 10/291,192 : ON PETITION
Filed: November 8, 2002 :
Attorney Docket No. 915-006.003-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2011, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed March 3, 2011. A Notice of Abandonment was mailed on September 13, 2011.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2443 for review of the amendment submitted with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7186814
Issue Date: March 6,2007
Application No. 10291291
Filed: November 8,2002
Attorney Docket No. 01-599-A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 17,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7186814	2007-03-06	10291291	2002-11-08	01-599-A

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gregory Pletta/	Date (YYYY-MM-DD)	2011-06-17
Name	Gregory Pletta	Registration Number	47864

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OCT 24 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (DC)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Hajime Kimura :
Application No.: 10/291,736 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No.: 12732-0127001 :

This is a decision on the petition, filed October 24, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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MAR 29 2012
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Barbara Joan Haushalter
228 Bent Pines Court
Bellefontaine OH 43311

In re Patent No. 6,679,081 :
Issue Date: January 20, 2004 :
Application No. 10/292,071 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. TFF001PA :

This is a decision on the petition under 37 CFR 1.378(c), filed March 5, 2012 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 21, 2012, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARTIN & FERRARO LLP
1557 LAKE O'PINES STREET NE
HARTVILLE OH 44632

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application	:	
Yurt, et al.	:	
Application No. 10/292,304	:	DECISION ON APPLICATION
Filed: November 11, 2002	:	FOR PATENT TERM ADJUSTMENT
Docket No. 147.0001-13000	:	

This is a decision on the petition under 37 CFR 1.705(b), filed January 12, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred three (503) days to three hundred thirty-two (332) days.

The application for patent term adjustment is **GRANTED**.

On December 24, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was five hundred three (503) days.

The Office initially determined a patent term adjustment of five hundred three (503) days based on an adjustment for PTO delay of one hundred fifty-nine (159) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR § 1.703(a)(1), and ninety-four (94), one hundred fifty (150), and two hundred fourteen (214) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR § 1.703(b), reduced by ninety-five (95) days of applicant delay pursuant to

37 CFR § 1.704(b) and six (6) and thirteen (13) days pursuant to 37 CFR § 1.704(c)(8).

However, Applicants point out that additional instances of Office and Applicant delay should have been accorded. The Office mailed a non-final Office action on November 13, 2008. Applicants filed a reply on May 12, 2009, and accordingly, should have been assessed Applicant delay of eighty-eight (88) days pursuant to 37 CFR 1.704(b). Subsequently, Applicants filed an IDS on October 2, 2009, and pursuant to 37 CFR 1.704(c)(8), should have been assessed delay of one hundred forty-three (143) days for this supplemental filing. Lastly, the Office did not file an Office action in response to Applicant's May 12, 2009 reply until November 12, 2009, and pursuant to 37 CFR 1.703(b), should have been assessed forty-seven (47) days of Office delay.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred thirty-two (332) days** (664 (159+94+150+214+47) days of PTO delay, reduced by 332 (6+95+88+143) days of applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10292304 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10292304

Application Filing Date	11/11/2002	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	617
A Delays	617	PTO Manual Adjustment	-171
B Delays	0	Applicant Delay (APPL)	114
C Delays	0	Total PTA (days)	332

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
126	09/19/2010		P028	Adjustment of PTA Calculation by PTO		171	0
111	12/24/2009		MN/=.	Mail Notice of Allowance			0
110	12/22/2009		IREV	Issue Revision Completed			0
109	12/22/2009		DVER	Document Verification			0
108	12/22/2009		N/=.	Notice of Allowance Data Verification Completed			0
107	12/22/2009		DOCK	Case Docketed to Examiner in GAU			0
105	12/22/2009		EX.A	Examiner's Amendment Communication			0
104	12/21/2009		CNTA	Notice of Allowability			0
102	12/19/2009		FWDX	Date Forwarded to Examiner			0
100	12/19/2009		FWDX	Date Forwarded to Examiner			0
98	12/19/2009		ABN9	Disposal for a RCE / CPA / R129			0
97	12/18/2009		MM327	Mail Miscellaneous Communication to Applicant			0
96	12/18/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
106	12/16/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
103	11/12/2009		IDSC	Information Disclosure Statement considered			0
101	11/12/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
99	11/12/2009		RCEX	Request for Continued Examination (RCE)			0
95	11/12/2009		IRCE	Improper Request for Continued Examination			0
94	11/12/2009		M844	Information Disclosure Statement (IDS) Filed			0
93	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
92	11/12/2009		BRCE	Workflow - Request for RCE - Begin			0
91	10/29/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
90	10/26/2009		CTFR	Final Rejection			0
88	10/02/2009		IDSC	Information Disclosure Statement considered			0
87	10/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
89	08/26/2009		IDSC	Information Disclosure Statement considered			0
86	08/26/2009		RCAP	Reference capture on IDS			0
85	08/26/2009	08/13/2009	M844	Information Disclosure Statement (IDS) Filed		13	82
84	08/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
81	08/24/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
83	08/23/2009		FWDX	Date Forwarded to Examiner			0
80	08/23/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
82	08/13/2009		A...	Response after Non-Final Action			0
79	08/13/2009		MPREV	Mail-Petition to Revive Application - Granted			0
78	08/13/2009		PREV	Petition to Revive Application - Granted			0
77	07/06/2009		PET.	Petition Entered			0
76	05/26/2009		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
75	05/25/2009		ABN2	Aband. for Failure to Respond to O. A.			0
74	11/13/2008	04/13/2008	MCTNF	Mail Non-Final Rejection	214		69
73	11/10/2008		CTNF	Non-Final Rejection			0
72	10/06/2008		DOCK	Case Docketed to Examiner in GAU			0
71	01/04/2008		APBR	Appeal Brief Review Complete			0
70	01/04/2008		FWDX	Date Forwarded to Examiner			0
69	12/13/2007		AP.B	Appeal Brief Filed			0
68	12/13/2007		XT/G	Request for Extension of Time - Granted			0
67	05/07/2007	02/01/2007	N/AP	Notice of Appeal Filed		95	65
66	05/07/2007		XT/G	Request for Extension of Time - Granted			0
65	11/01/2006		MCTNF	Mail Non-Final Rejection			0
64	10/30/2006		CTNF	Non-Final Rejection			0
63	08/15/2006		FWDX	Date Forwarded to Examiner			0
62	08/07/2006		ELC.	Response to Election / Restriction Filed			0
61	07/03/2006	02/03/2006	MCTRS	Mail Restriction Requirement	150		57
60	06/23/2006		CTRS	Requirement for Restriction / Election			0
59	03/21/2006		DOCK	Case Docketed to Examiner in GAU			0
58	10/18/2005		FWDX	Date Forwarded to Examiner			0
57	10/03/2005		ELC.	Response to Election / Restriction Filed			0
56	10/03/2005		XT/G	Request for Extension of Time - Granted			0
55	10/03/2005		XT/G	Request for Extension of Time - Granted			0
54	07/28/2005		MCTRS	Mail Restriction Requirement			0
53	07/25/2005		CTRS	Requirement for Restriction / Election			0
51	05/17/2005		FWDX	Date Forwarded to Examiner			0
52.7	05/10/2005	05/04/2005	M844	Information Disclosure Statement (IDS) Filed		6	50
52	05/10/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
50	05/04/2005		A...	Response after Non-Final Action			0
49	02/25/2005	11/23/2004	MCTNF	Mail Non-Final Rejection	94		35
48	02/22/2005		CTNF	Non-Final Rejection			0
47	02/10/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
36	11/08/2004		FWDX	Date Forwarded to Examiner			0
34	10/24/2004		CADB	Correspondence Address Change			0
35	07/23/2004		A...	Response after Non-Final Action			0
33	07/23/2004		WAMD	Workflow Incoming amendment IFW			0
32	06/18/2004	01/11/2004	MCTNF	Mail Non-Final Rejection	152		-1
31	06/14/2004		CTNF	Non-Final Rejection			0
30.7	04/21/2004		M844	Information Disclosure Statement (IDS) Filed			0
30	04/21/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
28	03/09/2004		PA..	Change in Power of Attorney (May Include Associate POA)			0
46	03/02/2004		RCAP	Reference capture on IDS			0
29.7	03/02/2004		M844	Information Disclosure Statement (IDS) Filed			0
29	03/02/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
27.7	02/05/2004		M844	Information Disclosure Statement (IDS) Filed			0
27	02/05/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
45	01/16/2004		RCAP	Reference capture on IDS			0
26.7	01/16/2004		M844	Information Disclosure Statement (IDS) Filed			0
26	01/16/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
17	01/07/2004		DOCK	Case Docketed to Examiner in GAU			0
44	12/19/2003		RCAP	Reference capture on IDS			0
25.7	12/19/2003		M844	Information Disclosure Statement (IDS) Filed			0
25	12/19/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
43	12/01/2003		RCAP	Reference capture on IDS			0
24.7	12/01/2003		M844	Information Disclosure Statement (IDS) Filed			0

24	12/01/2003		WIDS	Information Disclosure Statement (IDS) Filed	0
16	11/24/2003		DOCK	Case Docketed to Examiner in GAU	0
42	11/20/2003		RCAP	Reference capture on IDS	0
23.7	11/20/2003		M844	Information Disclosure Statement (IDS) Filed	0
23	11/20/2003		WIDS	Information Disclosure Statement (IDS) Filed	0
41	11/14/2003		RCAP	Reference capture on IDS	0
22.7	11/14/2003		M844	Information Disclosure Statement (IDS) Filed	0
22	11/14/2003		WIDS	Information Disclosure Statement (IDS) Filed	0
21.7	11/12/2003		M844	Information Disclosure Statement (IDS) Filed	0
21	11/12/2003		WIDS	Information Disclosure Statement (IDS) Filed	0
18	09/29/2003		A.PE	Preliminary Amendment	0
15	07/10/2003		MP003	Mail-Record Petition Decision of Granted to Make Special	0
13	06/11/2003		T11050	Transfer Inquiry to GAU	0
40	04/08/2003		RCAP	Reference capture on IDS	0
20.7	04/08/2003		M844	Information Disclosure Statement (IDS) Filed	0
20	04/08/2003		WIDS	Information Disclosure Statement (IDS) Filed	0
12	03/26/2003		OIPE	Application Dispatched from OIPE	0
11	03/14/2003		COMP	Application Is Now Complete	0
36	02/21/2003		A.PE	Preliminary Amendment	0
10	02/20/2003		ADDFLFEE	Additional Application Filing Fees	0
8	02/20/2003		SES	Small Entity Statement (37 CFR 1.27)	0
7	02/20/2003		CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems	0
6	12/19/2002		CPAP	Corrected Paper	0
2	11/19/2002		SCAN	IFW Scan & PACR Auto Security Review	0
39	11/11/2002		RCAP	Reference capture on IDS	0
37	11/11/2002		A.PE	Preliminary Amendment	0
19.7	11/11/2002		M844	Information Disclosure Statement (IDS) Filed	0
19	11/11/2002		WIDS	Information Disclosure Statement (IDS) Filed	0
14	11/11/2002		PET.	Petition Entered	0
9	11/11/2002		CLAIM	Claim Preliminary Amendment	0
1	11/11/2002		IEXX	Initial Exam Team nn	0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-08-10

TO SPE OF : ART UNIT 2421

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/292304 Patent No.: 7818773

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X☒X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/John W. Miller/ 2421
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Freedman & Associates
55 Murray Street
Suite 230
Ottawa ON K1N 5M3 CA **CANADA**

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Patent No. 6,704,963
Issue Date: March 16, 2004
Application No. 10/292,480
Filed: November 13, 2002
Patentee(s): Neil Hutton

NOTICE

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on September 28, 2011.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MRA ASSOCIATES
1312 44th St Ste 214
Brooklyn NY 11219

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Application of	:	
Mike Moshe Bannetto Piamenta	:	
Application No.: 10/292688	:	DECISION ON
Filing or 371(c) Date: 12/01/2005	:	PETITION
Title of Invention:	:	
AUTOMATIC SCANNING SYSTEM,	:	
SHOPPERS SCANPASS SYSTEM	:	

This is a decision in response to the renewed petition to withdraw the holding of abandonment, filed February 16, 2010. The renewed petition is properly treated under 37 CFR 1.181.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Office action having been received, the application became abandoned on November 27, 2007. A Notice of Abandonment was mailed March 19, 2008.

The June 16, 2008 petition

Applicant filed a petition to withdraw the holding of abandonment on June 16, 2008, and asserted that he had with him all the proofs with regard to the mailing exchanges which took place in the past, all in order and in timely fashion including April 7, August 27, Oct 30, and Sep 26 2007.

No copies of any documents accompanied the petition.

The April 23, 2009 Decision dismissing the petition

The petition was dismissed in a Decision mailed April 23, 2009. The Decision informed Applicant that a petition to withdraw the holding of abandonment that is based upon evidence that a timely reply to an Office action was filed, must include evidence of the timely-filed reply in accordance with 37 CFR 1.10 of 37 CFR 1.8. Copies of the reply must be included with the petition. If Applicant was unable to demonstrate that a timely reply to the Office action was filed, Applicant was advised that the application was properly held abandoned.

The August 9, 2009 renewed petition

Applicant filed a renewed petition on August 9, 2009, and initially noted that an attempt to contact this Office over the phone was made on 4/30/09 to prove that the reply in fact had been served on this Office. Applicant included a copy of a purchase receipt from the United States Post Office ("USPS"), and a copy of a Certified Mail Receipt from the USPS, both dated October 26, 2007, and a copy of a delivery confirmation which contains a date stamp from this Office dated October 30, 2007.

The January 8, 2010 Decision dismissing the petition

The petition was dismissed in a Decision mailed January 8, 2010. The Decision informed Applicant that the application is abandoned because we did not receive a reply to the Office action this Office mailed on August 27, 2007. Applicant had three (3) months from that date to file a reply. Because we did not receive a reply by November 27, 2007, the application became, and remains, abandoned.

Applicant was informed that he had failed to demonstrate under Office rules that a timely reply was filed. As had been noted in the prior Decision, acceptable evidence that a reply was timely filed are a copy of an Express Mail Mailing Label in compliance with 37 CFR 1.10, showing that the correspondence was timely filed, and a copy of the reply, or a Certificate of Mailing in compliance with 37 CFR 1.8, and a copy of the reply. Applicant was advised that a Certificate of Mailing under 37 CFR 1.8 was not the same as Certified Mail. Applicant was advised that if Applicant was unable to demonstrate that he filed the reply in accordance with either 37 CFR 1.10 (Express Mail), or 37 CFR 1.8 (Certificate of Mailing), then 37 CFR 1.6 says that the date of receipt is used.

The present renewed petition

Applicant files the present renewed petition and includes a copy of a Certified Mail Receipt from the USPS, dated October 26, 2007, and a copy of a delivery confirmation which contains a date stamp from this Office dated October 30, 2007. Applicant also includes what appears to be a copy of the specification originally transmitted to this Office on November 4, 2002[1].

[1] The application papers deposited with this Office on November 4, 2002 were insufficient to accord the application a filing date.

Analysis

In this instance, Applicant has again shown that a Certified Mailing to this Office occurred on October 30, 2007; however, a review of the copy of the application papers filed with the present petition reveal that Applicant failed to comply with 37 CFR 1.10, or 37 CFR 1.8. As noted in the prior Decision, acceptable evidence that a reply was timely filed are a copy of an Express Mail Mailing Label in compliance with 37 CFR 1.10, showing that the correspondence was timely filed, and a copy of the reply, or a Certificate of Mailing in compliance with 37 CFR 1.8, and a copy of the reply. Here, the papers were not filed using Express Mail Service of the United States Postal Service, nor do the papers contain a Certificate of Mailing in accordance with 37 CFR 1.8. As such, Applicant has failed to demonstrate that the papers putatively filed Certified Mail were included in the mailing. As mandated by Office rules, 37 CFR 1.6, the date of receipt of the correspondence is the filing date accorded the application papers.

As noted in the decision mailed January 8, 2010, Applicants options are (1) prove that he filed a reply on or before November 27, 2007 (by sending a copy of the reply that was filed), or (2) file a petition to revive the application, and include a reply to the Office action and the petition fee.

The Manual of Patent Examining Procedure states:

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. (Emphasis supplied).

MPEP 711.03(c).

In this instance, Applicant has failed to demonstrate under Office rules that a timely reply was filed. A petition to revive the application is required.

Alternate venue (Petition to revive)

It appears from the evidence proffered by Applicant that neither 37 CFR 1.10, nor 37 CFR 1.8 were used, and Applicant instead relied upon Certified Mail. Applicant is advised that a petition under 37 CFR 1.137(a) (as opposed to 37 CFR 1.137(b)), may be considered in this instance. A grantable petition under 37 CFR 1.137(a) requires (1) the petition; (2) the petition fee, and (3) the reply.

Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents.

Applicant is further advised that the Office of Independent Inventors, at 703-306-5568; is available to provide assistance in prosecuting patent applications.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTO/SB/61 (Petition for Revival of an Application Abandoned Unavoidably)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

Moshe Bannetto Piamenta
87 Hight St
Armonk NY 10504

MAILED

APR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Mike Moshe Bannetto Piamenta	:	
Application No.: 10/292688	:	DECISION ON
Filing or 371(c) Date: 12/01/2005	:	PETITION
Title of Invention:	:	
AUTOMATIC SCANNING SYSTEM,	:	
SHOPPERS SCANPASS SYSTEM	:	

This is a decision in response to the correspondence, filed January 12, 2011.The correspondence is properly treated as a renewed petition to withdraw the holding of abandonment under 37 CFR 1.181.

This Petition is hereby **dismissed**.

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

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Office action having been received, the application became abandoned on November 27, 2007. A Notice of Abandonment was mailed March 19, 2008.

The June 16, 2008 petition

Applicant filed a petition to withdraw the holding of abandonment on June 16, 2008, and asserted that he had with him all the proofs with regard to the mailing exchanges which took place in the past, all in order and in timely fashion including April 7, August 27, Oct 30, and Sep 26, 2007.

No copies of any documents accompanied the petition.

The April 23, 2009 Decision dismissing the petition

The petition was dismissed in a Decision mailed April 23, 2009. The Decision informed Applicant that a petition to withdraw the holding of abandonment that is based upon evidence that a timely reply to an Office action was filed, must include evidence of the timely-filed reply in accordance with 37 CFR 1.10 or 37 CFR 1.8. Copies of the reply must be included with the petition. If Applicant was unable to demonstrate that a timely reply to the Office action was filed, Applicant was advised that the application was properly held abandoned.

The August 9, 2009 renewed petition

Applicant filed a renewed petition on August 9, 2009, and initially noted that an attempt to contact this Office over the phone was made on 4/30/09 to prove that the reply in fact had been served on this Office. Applicant included a copy of a purchase receipt from the United States Post Office ("USPS"), and a copy of a Certified Mail Receipt from the USPS, both dated October 26, 2007, and a copy of a delivery confirmation, which contains a date stamp from this Office dated October 30, 2007.

The January 8, 2010 Decision dismissing the petition

The petition was dismissed in a Decision mailed January 8, 2010. The Decision informed Applicant that the application is abandoned because we did not receive a reply to the Office action that this Office mailed on August 27, 2007. Applicant had three (3) months from that date to file a reply. Because we did not receive a reply by November 27, 2007, the application became, and remains, abandoned.

Applicant was informed that he had failed to demonstrate under Office rules that a timely reply was filed. As had been noted in the prior Decision, acceptable evidence that a reply was timely filed are a copy of an Express Mail Mailing Label in compliance with 37 CFR 1.10, showing that the correspondence was timely filed, and a copy of the reply, or a Certificate of Mailing in compliance with 37 CFR 1.8, and a copy of the reply. Applicant was advised that a Certificate of Mailing under 37 CFR 1.8 was not the same as Certified Mail. Applicant was advised that if Applicant was unable to demonstrate that he filed the reply in accordance with either 37 CFR 1.10 (Express Mail), or 37 CFR 1.8 (Certificate of Mailing), then 37 CFR 1.6 requires that the date of receipt is the date filing of the reply.

The February 16, 2010 renewed petition

Applicant filed a renewed petition on February 16, 2001, and included a copy of a Certified Mail Receipt from the USPS, dated October 26, 2007, and a copy of a delivery confirmation, which contained a date stamp from this Office dated October 30, 2007. Applicant also included what appeared to be a copy of the specification originally transmitted to this Office on November 4, 2002, along with a cover letter dated October 26, 2007.

The November 18, 2010 Decision dismissing the petition

The petition was dismissed in a Decision mailed November 18, 2010. The decision dismissing the petition noted that Applicant had again shown that a Certified Mailing to this Office was received on October 30, 2007; however, a review of the copy of the application papers filed with the present (February 16, 2010) petition revealed that Applicant failed to comply with 37 CFR 1.10, or 37 CFR 1.8, and concluded that Applicant had failed to demonstrate under Office rules that a timely reply was filed. A petition to revive the application was required.

The present renewed petition

Applicant files the present renewed petition and again files a copy of a Certified Mail Receipt from the USPS, dated October 26, 2007. Applicant also files a copy of a Sales Receipt from the USPS Nostrand Station, Brooklyn, NY, evidencing payment of the fee for certified postage to Alexandria, VA 22313 on October 26, 2007.

Analysis

In this instance, Applicant has again shown that a Certified Mailing to this Office was received in this Office on October 30, 2007; however, Applicant failed to comply with 37 CFR 1.10, or 37 CFR 1.8. Compliance with 37 CFR 1.8 or 1.10 is required to show that the papers filed were actually sent to this office on the date that Applicant alleges the papers were filed. Here, Applicant has a copy of a Certified Mail Receipt showing that something was mailed to this Office on October 26, 2007; however, because Applicant has not complied with the rules, Applicant is unable to show that the reply was included in the mailing to this Office on October 26, 2007. Applicant has failed to demonstrate that the papers putatively filed Certified Mail were included in the mailing. ***This Office did not receive the reply to the Office action until January 8, 2010. As mandated by Office rules, 37 CFR 1.6 requires that the date of receipt of the correspondence, January 8, 2010, is the filing date accorded the application papers.***

As previously noted Applicants options are (1) prove that he filed a reply on or before November 27, 2007, (2) file a petition to revive the application, and include a reply to the Office action and the petition fee.

Applicant has failed to demonstrate under Office rules that a timely reply was filed. ***A petition to revive the application is required.***

Alternate venue (Petition to revive)

It appears from the evidence proffered by Applicant that neither 37 CFR 1.10, nor 37 CFR 1.8 were used, and Applicant instead relied upon Certified Mail. ***Applicant is advised that a petition under 37 CFR 1.137(a) (as opposed to 37 CFR 1.137(b)), may be considered in this instance.*** A grantable petition under 37 CFR 1.137(a) requires (1) the petition; (2) the petition fee (currently $270.00), and (3) the reply (previously filed on January 8, 2010).

Applicant is advised that the Office of Independent Inventors, at 1-800-786-9199; is available to provide assistance in prosecuting patent applications.

Applicant is also advised that a list of registered practitioners is available at www.uspto.gov/main/patents.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTO/SB/61 (Petition for Revival of an Application Abandoned Unavoidably)

PTO/SB/61 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: _____ Art Unit: _____

Application Number: _____ Examiner: _____

Filed: _____

Title: _____

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B The issue fee of $ _____.

☐ has been filed previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Moshe Bannetto Piamenta
87 Hight St
Armonk NY 10504

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Application of	:	
Mike Moshe Bannetto Piamenta	:	
Application No.: 10/292688	:	DECISION ON
Filing or 371(c) Date: 12/01/2005	:	PETITION
Title of Invention:	:	
AUTOMATIC SCANNING SYSTEM,	:	
SHOPPERS SCANPASS SYSTEM	:	

This is a decision in response to the correspondence, filed June 6, 2011.The correspondence is properly treated as a renewed petition to withdraw the holding of abandonment under 37 CFR 1.181.

This Petition is hereby **DENIED**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Office action having been received, the application became abandoned on November 27, 2007. A Notice of Abandonment was mailed March 19, 2008.

The June 16, 2008 petition

Applicant filed a petition to withdraw the holding of abandonment on June 16, 2008, and asserted that he had with him all the proofs with regard to the mailing exchanges which took place in the past, all in order and in timely fashion including April 7, August 27, Oct 30, and Sep 26, 2007.

No copies of any documents accompanied the petition.

The April 23, 2009 Decision dismissing the petition

The petition was dismissed in a Decision mailed April 23, 2009. The Decision informed Applicant that a petition to withdraw the holding of abandonment that is based upon evidence that a timely reply to an Office action was filed, must include evidence of the timely-filed reply in accordance with 37 CFR 1.10 or 37 CFR 1.8. Copies of the reply must be included with the

petition. If Applicant was unable to demonstrate that a timely reply to the Office action was filed, Applicant was advised that the application was properly held abandoned.

The August 9, 2009 renewed petition

Applicant filed a renewed petition on August 9, 2009, and initially noted that an attempt to contact this Office over the phone was made on 4/30/09 to prove that the reply in fact had been served on this Office. Applicant included a copy of a purchase receipt from the United States Post Office ("USPS"), and a copy of a Certified Mail Receipt from the USPS, both dated October 26, 2007, and a copy of a delivery confirmation, which contains a date stamp from this Office dated October 30, 2007.

The January 8, 2010 Decision dismissing the petition

The petition was dismissed in a Decision mailed January 8, 2010. The Decision informed Applicant that the application is abandoned because we did not receive a reply to the Office action that this Office mailed on August 27, 2007. Applicant had three (3) months from that date to file a reply. Because we did not receive a reply by November 27, 2007, the application became, and remains, abandoned.

Applicant was informed that he had failed to demonstrate under Office rules that a timely reply was filed. As had been noted in the prior Decision, acceptable evidence that a reply was timely filed are a copy of an Express Mail Mailing Label in compliance with 37 CFR 1.10, showing that the correspondence was timely filed, and a copy of the reply, or a Certificate of Mailing in compliance with 37 CFR 1.8, and a copy of the reply. Applicant was advised that a Certificate of Mailing under 37 CFR 1.8 was not the same as Certified Mail. Applicant was advised that if Applicant was unable to demonstrate that he filed the reply in accordance with either 37 CFR 1.10 (Express Mail), or 37 CFR 1.8 (Certificate of Mailing), then 37 CFR 1.6 requires that the date of receipt is the date the reply is filed.

The February 16, 2010 renewed petition

Applicant filed a renewed petition on February 16, 2010, and included a copy of a Certified Mail Receipt from the USPS, dated October 26, 2007, and a copy of a delivery confirmation, which contained a date stamp from this Office dated October 30, 2007. Applicant also included what appeared to be a copy of the specification originally transmitted to this Office on November 4, 2002, along with a cover letter dated October 26, 2007.

The November 18, 2010 Decision dismissing the petition

The petition was dismissed in a Decision mailed November 18, 2010. The decision dismissing the petition noted that Applicant had again shown that a Certified Mailing to this Office was received on October 30, 2007; however, a review of the copy of the application papers filed with the present (February 16, 2010) petition revealed that Applicant failed to comply with 37 CFR 1.10, or 37 CFR 1.8, and concluded that Applicant had failed to demonstrate under Office rules that a timely reply was filed. A petition to revive the application was required.

The January 12, 2011 renewed petition

Applicant filed a renewed petition on January 12, 2011, and again filed a copy of a Certified Mail Receipt from the USPS, dated October 26, 2007. Applicant also filed a copy of a Sales Receipt from the USPS Nostrand Station, Brooklyn, NY, evidencing payment of the fee for certified postage to Alexandria, VA 22313 on October 26, 2007.

The April 14, 2011 Decision dismissing the petition

The petition was dismissed in a Decision mailed April 14, 2011. The Decision dismissing the petition noted that Applicant had again shown that a Certified Mailing to this Office was received in this Office on October 30, 2007; however, Applicant failed to comply with 37 CFR 1.10, or 37 CFR 1.8. Applicant was advised that compliance with 37 CFR 1.8 or 1.10 is required to show that the papers filed were actually sent to this Office on the date that Applicant alleges the papers were filed. Here, Applicant has a copy of a Certified Mail Receipt showing that something was mailed to this Office on October 26, 2007; however, because Applicant had not complied with the rules, Applicant was unable to show that the reply was included in the mailing to this Office on October 26, 2007. Applicant had failed to demonstrate that the papers putatively filed Certified Mail were included in the mailing. The Decision stated that "**[t]*his Office did not receive the reply to the Office action until January 8, 2010. As mandated by Office rules, 37 CFR 1.6 requires that the date of receipt of the correspondence, January 8, 2010, is the filing date accorded the application papers*.

Applicant was again advised that Applicants' options are (1) prove that he filed a reply on or before November 27, 2007, (2) file a petition to revive the application, and include a reply to the Office action and the petition fee.

Finally, Applicant was advised that the Office of Independent Inventors, at 1-800-786-9199; was available to provide assistance in prosecuting patent applications, and that a list of registered practitioners is available at www.uspto.gov/main/patents.

The present renewed petition

Applicant files the present renewed petition and referring to all documents sent to this Office in the past, states that "[a]ll had been dated with proof of US Post Office Cert' mails." Petition at p.1. Petitioner requests this Office go back to all mailings, which have been sent twice, and requests this Office restore his application back into the system.

Analysis

Applicants' arguments and evidence have been reviewed. The copy of the Amendment filed with the petition on February 16, 2010, contains a cover page dated October 26, 2007; however, the cover page is not signed. The Exhibit (also filed February 16, 2008), contains pages 1-8, and page 8 is signed and dated 2 June, 2005. There is no evidence on the copy of the Amendment that Applicant complied with 37 CFR 1.10, or 37 CFR 1.8. As stated in the Decision mailed

November 18, 2010, in response to the filing of the copy of the Amendment, Applicant has failed to demonstrate under Office rules that a timely reply to the Office action was filed.

Conclusion

The instant petition under 37 CFR 1.181 is granted to the extent that a review of all mailings has been conducted; however, Applicant has failed to demonstrate under Office rules that a timely reply to the Office action was filed; and the renewed petition to withdraw the holding of abandonment is DENIED.

Alternate venue (Petition to revive)

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97 247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee (currently $930.00).

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

Applicant is advised that the Office of Independent Inventors, at 1-800-786-9199; is available to provide assistance in prosecuting patent applications.

Telephone inquiries concerning this Decision should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: PTO/SB/61 (Petition for Revival of an Application Abandoned Unintentionally)

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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SEP 08 2010

OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

In re Patent No. 7,655,791
Issued: February 2, 2010
Application No. 10/293,048
Filed: November 13, 2002
Dkt. No.: RUBC:020US/ 10211346

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on May 19, 2010 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1,841 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by 1,841 days is **GRANTED**.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **1,841** days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence

regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: David L. Parker
600 Congress Avenue, Suite 2400
Austin, TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,655,791

DATED : **February 2, 2010** **DRAFT**

INVENTOR(S) : Makarov, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1,719 days

Delete the phrase "by 1,719 days" and insert – by 1,841 days--

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United States Patent and Trademark Office
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Calfee Halter & Griswold
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

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SEP 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,455,995	:	
Tanner et al.	:	DECISION UPON REMAND AND
Issue Date: November,25 2008	:	RECONSIDERATION OF
Application No. 10/293,239	:	PATENT TERM ADJUSTMENT
Filed: November 12, 2002	:	AND NOTICE OF INTENT
Attorney Docket No. 22727/04101	:	TO ISSUE CERTIFICATE OF
Title: Baalc Expression as a Diagnostic Marker for Acute Leukenia	:	CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by twelve hundred and sixty-seven (1267) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by twelve hundred and sixty-seven (1267) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,455,995

DATED : **November 25, 2008** **DRAFT**

INVENTOR(S) : Tanner et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 705 days

Delete the phrase "by 705 " and insert – by 1267 days--

Day : Wednesday

PALM INTRANET

Date: 9/29/2010
Time: 09:36:27

PTA Calculations for Application: 10/293239			
Application Filing Date:	11/12/2002	PTO Delay (PTO):	884
Issue Date of Patent:	11/25/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	179
Post-Issue Petitions:	0	Total PTA (days):	1267
PTO Delay Adjustment:	562		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	09/29/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	562		
68.5	11/05/2008	PTA 36 MONTHS	255		
68	11/25/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
67	10/22/2008	EXPORT TO FINAL DATA CAPTURE			
66	10/21/2008	DISPATCH TO FDC			
65	10/21/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
64	10/20/2008	ISSUE FEE PAYMENT VERIFIED		2	55
63	10/20/2008	ISSUE FEE PAYMENT RECEIVED			
62	10/03/2008	FINISHED INITIAL DATA CAPTURE			
61	09/04/2008	WORKFLOW - QUERY REQUEST - FINISH			
60	09/02/2008	TC RETURN TO PUBS			
59	08/06/2008	PUBS CASE REMAND TO TC			
58	08/12/2008	WORKFLOW - QUERY REQUEST - BEGIN			
57	08/05/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
56	07/21/2008	EXPORT TO INITIAL DATA CAPTURE			
55	07/18/2008	MAIL NOTICE OF ALLOWANCE			
54	07/09/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	07/09/2008	CASE DOCKETED TO EXAMINER IN GAU			
52	07/09/2007	ISSUE REVISION COMPLETED			
51	07/09/2008	DOCUMENT VERIFICATION			
50	06/23/2008	NOTICE OF ALLOWABILITY			
49	04/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	04/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
47	04/14/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
46	04/25/2008	DATE FORWARDED TO EXAMINER			
45	04/14/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
44	04/25/2008	DATE FORWARDED TO EXAMINER			
43	04/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	04/25/2008	DISPOSAL FOR A RCE / CPA / R129			
41	04/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	04/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	02/25/2008	MAIL FINAL REJECTION (PTOL - 326)			
38	02/19/2008	FINAL REJECTION			
37	12/05/2007	DATE FORWARDED TO EXAMINER			
36	11/26/2007	RESPONSE AFTER NON-FINAL ACTION		55	34
35	11/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	07/02/2007	MAIL NON-FINAL REJECTION			
33	06/25/2007	NON-FINAL REJECTION			
32	04/10/2007	DATE FORWARDED TO EXAMINER			
31	04/05/2007	RESPONSE AFTER NON-FINAL ACTION		31	29
30	04/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	12/05/2006	MAIL NON-FINAL REJECTION	66		24
28	11/27/2006	NON-FINAL REJECTION			
27	04/07/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	08/30/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	09/26/2006	DATE FORWARDED TO EXAMINER			
24	05/30/2006	RESPONSE AFTER NON-FINAL ACTION		91	22
23	05/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	11/28/2005	MAIL NON-FINAL REJECTION			
21	11/23/2005	NON-FINAL REJECTION			
20	09/21/2005	DATE FORWARDED TO EXAMINER			
19	08/31/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
18	07/28/2005	MAIL RESTRICTION REQUIREMENT	563		-1
17	07/26/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
16.7	08/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
16	08/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/26/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	04/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	03/24/2003	APPLICATION DISPATCHED FROM OIPE			
11	03/06/2003	APPLICATION IS NOW COMPLETE			
10	02/16/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	02/16/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	02/16/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	01/13/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	12/31/2002	CLEARED BY L&R (LARS)			
4	12/09/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	11/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	11/12/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	11/12/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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Woodard, Emhardt, Moriarty, McNett & Henry, LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
David A. Sirbasku :
Application No. 10/293,439 : DECISION ON PETITIONS UNDER
Filed: November 13, 2002 : 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 057041-000016 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 19, 2010 and on August 4, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed

applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, is enclosed with this decision.

The application is being forwarded to Technology Center Art Unit 1643 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/293,439	11/13/2002	1643	484	057041-000016	28	4

CONFIRMATION NO. 7815

CORRECTED FILING RECEIPT

30565
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Date Mailed: 08/06/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David A. Sirbasku, Austin, TX;

Power of Attorney: The patent practitioners associated with Customer Number 30565

Domestic Priority data as claimed by applicant

This application is a CIP of 09/852,958 05/10/2001
which claims benefit of 60/231,273 09/08/2000
and claims benefit of 60/229,071 08/30/2000
and claims benefit of 60/208,111 05/31/2000
and claims benefit of 60/208,348 05/31/2000
and claims benefit of 60/203,314 05/10/2000
This application 10/293,439
is a CIP of 09/852,547 05/10/2001
which claims benefit of 60/231,273 09/08/2000
and claims benefit of 60/229,071 08/30/2000
and claims benefit of 60/208,111 05/31/2000
and claims benefit of 60/208,348 05/31/2000

Foreign Applications

If Required, Foreign Filing License Granted: 01/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/293,439**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

ANTI-ESTROGEN AND IMMUNE MODULATOR COMBINATIONS FOR TREATING BREAST CANCER

Preliminary Class

530

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

RECEIVED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of :
David A. Sirbasku :
Application No. 10/293,440 : DECISION ON PETITION
Filed: November 13, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 057041-000002 :

This is a decision on the petition filed August 4, 2010, which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed Supplemental Application Data Sheet.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

The $400 received with this petition is unnecessary and will be credit to petitioner credit card in due course.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1643 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

/dab/
David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/293,440	11/13/2002	1643	433	057041-000002	27	1

CONFIRMATION NO. 7697

30565
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

CORRECTED FILING RECEIPT

OC000000043913341

Date Mailed: 10/08/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David A. Sirbasku, Austin, TX;

Power of Attorney: The patent practitioners associated with Customer Number 30565

Domestic Priority data as claimed by applicant

This application is a CIP of 09/852,958 05/10/2001
which claims benefit of 60/203,314 05/10/2000
and claims benefit of 60/208,348 05/31/2000
and claims benefit of 60/208,111 05/31/2000
and claims benefit of 60/229,071 08/30/2000
and claims benefit of 60/231,273 09/08/2000
This application 10/293,440
is a CIP of 09/852,547 05/10/2001
which claims benefit of 60/203,314 05/10/2000
and claims benefit of 60/208,348 05/31/2000
and claims benefit of 60/208,111 05/31/2000
and claims benefit of 60/229,071 08/30/2000
and claims benefit of 60/231,273 09/08/2000
This application 10/293,440
claims benefit of 60/332,920 11/14/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/17/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/293,440**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

SCREENING METHOD FOR PREDICTING SUSCEPTIBILITY TO BREAST CANCER

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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WOODARD EMHARDT MORIARTY MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

MAILED

OCT 19 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David A. Sirbasku :
Application No. 10/293,440 :
Filed: November 13, 2002 :
Attorney Docket No. 057041-000002 :

This is a decision on the petition under 37 CFR 1.182, filed August 4, 2010 to expedite the petition to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application.

The petition is **DISMISSED AS MOOT.**

The $400 petition fee received with this petition has been credit to petitioner's credit card.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-18-11

TO SPE OF : ART UNIT 1715

SUBJECT : Request for Certificate of Correction for Appl. No.: 10293830 Patent No.: 7887889

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch
703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 1715
SPE **Art Unit**

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

MAILED

NOV 03 2010

OFFICE OF PETITIONS

In re Patent of James S. Im et al.	:	DECISION ON PETITION
Patent No. 7,029,996	:	UNDER 37 C.F.R. § 1.183
Issue Date: April 18, 2006	:	AND ON REQUEST FOR
Application No. 10/294,001	:	RECONSIDERATION OF
Filing Date: November 13, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 070050.2193	:	

This is a decision on the petition under 37 C.F.R. § 1.705(d). This is also a decision in response to the petition under 37 C.F.R. § 1.182, filed May 20, 2010, which is being treated as a petition under 37 C.F.R. § 1.183.

The petition under 37 C.F.R. § 1.705(d) is **dismissed as untimely filed**.

The petition under 37 C.F.R. § 1.183 is **dismissed**.

Any request for reconsideration, whether directed to the decision on petition under 37 C.F.R. § 183 or to the decision on the request under 37 C.F.R. § 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 C.F.R. § 1.136 are NOT permitted. *See* 37 C.F.R. § 1.181(f).

Background

The application matured into U.S. Patent No. 7,029,996, on April 18, 2006, with a patent term adjustment of 33 days.

A request for reconsideration of the revised patent term adjustment was not filed within two months of the date the patent issued.

If a party disagrees with the Office's calculation of a patent term adjustment the party may file "a civil action against the Director ... in the United States District Court for the District Columbia within 180 days after the grant of the patent." 35 U.S.C. § 154(b)(4). Patentees could have filed a civil action as late as October 15, 2006. A civil action was not filed on or before October 15, 2006, and the record fails to indicate a civil action has been filed.

On September 30, 2008, the U.S. District Court for the District of Columbia issued a decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d (BNA) 1538 (D.D.C. 2008). The decision disagreed with the process the USPTO was using at that time to determine the number of days of overlap between delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

On January 7, 2010, the Court of Appeals for the Federal Circuit issued a decision in *Wyeth v. Kappos*, 591 F.3d 1364, 93 U.S.P.Q. 2d (BNA) 1257 (Fed. Cir. 2010) affirming the district court's decision.

Petitions under 37 C.F.R. § 1.705(d) and 37 C.F.R. § 1.182 were filed March 5, 2010, which was 1,417 days after the date the patent issued and 521 days after issuance of the district court decision in *Wyeth v. Dudas*.

The Office issued a decision on February April 20, 2010, which treated the petitions as if they were a "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" form filed pursuant to a February 1, 2010 federal register notice issued by the Office.[1] The decision dismissed the request based on an assertion the request was "ineligible for consideration."

The instant request for reconsideration was filed May 20, 2010.

The Petition Under 37 C.F.R. § 1.705(d)

37 C.F.R. § 1.705(d) states, "[A]ny request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued."

The patent issued April 16, 2006. The prior request under 37 C.F.R. § 1.705(d) was not filed until March 5, 2010, which was 1,387 days past the two-month limit to file the request. Therefore, the request is dismissed as untimely.

The Petition Under 37 C.F.R. § 1.183

The petition requests relief in the alternative under 37 C.F.R. § 1.182. A petition under 37 C.F.R. § 1.182 is only appropriate when addressing a situation that is not specifically provided for in the regulations. 37 C.F.R. § 1.182 states, "All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director."

Office regulations specifically provide a time limit within which one must file a petition under 37 C.F.R. § 1.705(d). 37 C.F.R. § 1.705(d) clearly states such a request "must be filed within two months of the date the patent issued."

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[1] The referenced notice is Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply With the Federal Circuit Court Decision in Wyeth v. Kappos Regarding the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A), 75 *Fed. Reg.* 5043 (February 1, 2010), 1351 *Off. Gaz. Pat. Office* 204 (February 23, 2010).

Office regulations also specifically provide a method a party can use when seeking to have the Office consider the merits of a paper filed beyond a non-statutory time limit set forth in Office regulations. 37 C.F.R. § 1.183 states, "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee."

In view of the existence of the time limit in 37 C.F.R. § 1.705(d) and the waiver provision of 37 C.F.R. § 1.183, a petition under 37 C.F.R. § 1.182 is inappropriate.

As a courtesy, the Office has chosen to treat the petition under 37 C.F.R. § 1.182 as a petition under 37 C.F.R. § 1.183 requesting waiver of the time limit set forth in 37 C.F.R. § 1.705(d).

On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d). *See* Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply With the Federal Circuit Court Decision in Wyeth v. Kappos Regarding the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A), 75 *Fed. Reg.* 5043 (February 1, 2010) ("Notice"). The Notice indicated the USPTO would permit patent owners to request recalculation of a patent's patent term adjustment up to 180 days after the grant of the patent in view of the Federal Circuit Court decision in *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010).[2]

When the Office issued the February 1, 2010 Notice, the Office determined the Office would not accept any requests for PTA recalculation initially filed more than 180 days after the grant of the patent in view of the statutory judicial-review provisions of 35 U.S.C. § 154(b)(4), which require any civil action challenging the USPTO's PTA determination be brought within 180 days of the issuance of the patent. The USPTO believes the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in light of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedures Act, indicates a congressional intent that PTA issues be resolved shortly after the issuance of a patent. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus the USPTO believes that the 180-day period set forth in 35 U.S.C. § 154(b)(4) represents the outer limit for a party to initially file a request for PTA recalculation.

The instant request under 37 C.F.R. § 1.705(d) was not filed within 180 days of the date the patent issued. Therefore, in view of the prior discussion, the petition under 37 C.F.R. § 1.183 is dismissed and the two-month time period set forth in 37 C.F.R. § 1.705(d) will not be waived.

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[2] The Notice stated the Office was *sua sponte* waiving the two-month limit to file a request under 37 C.F.R. § 1.705(d) if the request is filed within 180 days of the date the patent issued, the patent issued prior to March 2, 2010, and the sole basis for requesting reconsideration of the patent term adjustment is the Office's pre-*Wyeth* interpretation of 35 U.S.C. § 154(b)(2)(A).

Request for Suspension of Proceedings

Patentees request any decision on the "petition be stayed pending the outcome of *General Hospital Corp. v. Dudas*, No. 1:09-cv-109 (filed D.D.C. Jan. 16, 2009)."

Patentees have not established the *General Hospital* case and this case are similar to such an extent as to warrant the Office staying the issuance of the instant decision.[3] The instant patent was issued April 16, 2008. The patent at issue in *General Hospital* was issued May 6, 2008. The instant case involves a 1,387-day violation of a time limit, the two-month period under 37 C.F.R. § 1.705(d). *General Hospital* involves a 76-day violation of a time limit, the 180-day period to file a complaint. Patentees did not file the instant petition until 521 days after issuance of the district court *Wyeth* decision. The complaint in *General Hospital* was filed 108 days after issuance of the the district court *Wyeth* decision. In this case, a petition was not filed until after the circuit court *Wyeth* decision. The complaint in *General Hospital* was filed approximately a year before the circuit court decision.

In view of the preceding discussion, the Office will not stay the issuance of a decision in response to the petition.

As a courtesy, the Office notes the existence of a website states, "General Hospital voluntarily dismissed [its] action on April 21, 2010."[4] Since the Office will not stay issuance of the instant decision even if the *General Hospital* case is still pending, the Office has not verified the accuracy of the statement.

Fees

Patentees paid the $400 fee for the petition under 37 C.F.R. § 1.182, which has been treated as a petition under 37 C.F.R. § 1.183, on March 5, 2010. However, Patentees did not submit the $200 fee set forth in 37 C.F.R. § 1.18(e) for the petition under 37 C.F.R. § 1.705(d). Therefore, the Office has charged the $200 fee to Deposit Account No. 02-4377 per the general authorization to charge necessary fees to the deposit account in the petition.

Conclusion

The Office will not reconsider the patent term adjustment set forth on the patent and the patent term adjustment remains 33 days.

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[3] These facts in this paragraph involving General Hospital have not been independently verified by the undersigned. The facts are based on information found at: http://www.patentdocs.org/2010/01/uspto-posts-notice-regarding-wyeth-decision.html.

[4] http://www.patentdocs.org/2010/07/novartis-challenges-usptos-interim-procedure-for-requesting-pta-recalculations.html. (*citing* Pacer)

Telephone inquiries specific to this matter should be directed to Steven Brantley, Senior Petitions Attorney, at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6975475
Issue Date: December 13,2005
Application No. 10294115
Filed: November 14,2002
Attorney Docket No. 139-020

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6975475	2005-12-13	10294115	2002-11-14	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2010-12-08
Name	Benoit CASTEL	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 110466-152104 (P14906)	Patent Number: 7,669,229
Filing Date (or 371(b) or (f) Date): 11-13-2002	Issue Date: 02-23-2010
First Named Inventor: Steven L. Grobman	
Title: NETWORK PROTECTING AUTHENTICATION PROXY	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Crystal D. Sayles/	Date 7/9/2010
Name (Print/Typed) Crystal D. Sayles	Registration Number 44,318

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 09/08/2010

Applicant	: Steven L. Grobman	: DECISION ON REQUEST FOR
Patent Number	: 7669229	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/294,126	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1747** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODARD, EMHARDT, NAUGHTON,
MORIATY AND MCNETT, LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANPOLIS, IN 46204-5137

MAILED
JAN 17 2012
OFFICE OF PETITIONS

In re Application of	:	
Lawrence P. Bush	:	
Application No. 10/294,316	:	DECISION DISMISSING PETITION
Filed: November 14, 2002	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 12016-213	:	

This is a decision on the petition under 37 CFR 1.313(a), filed January 16, 2012, to withdraw the above-identified application from issue.

The petition is **DISMISSED AS MOOT** since this application is now abandoned for failure to timely pay the issue and publication fees on or before December 19, 2011 as required by the Notice of Allowance and Fee(s) Due, mailed September 19, 2011.

Petitioner should note that the mere filing of a petition to withdraw from issue does not stay the period for paying the fees required by the Notice of Allowance and Fee(s) Due. Unless an applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue and publication fees must be timely submitted to avoid abandonment. *Note* MPEP § 1308(I)(A).

In view of the above, the petition to withdraw from issue must be dismissed as involving a moot issue.

Petitioner may wish to consider filing a petition under 37 CFR 1.137 to revive this application.

Telephone inquiries concerning this decision may be directed to undersigned at (571) 272-1642.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODARD, EMHARDT, NAUGHTON,
MORIATY AND MCNETT, LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANPOLIS, IN 46204-5137

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Application of	:	
Lawrence P. Bush	:	
Application No. 10/294,316	:	DECISION GRANTING PETITIONS
Filed: November 14, 2002	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 12016-213	:	37 CFR 1.313(c)(2)

This is a decision on the renewed petitions, filed January 26, 2012, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before December 19, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed September 19, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1740 issue fee and the $300 publication fee, (2) the petition fee of $1860, and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition. Accordingly, the reply to the Notice of Allowance is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Since the $130 petition fee submitted with the petition on January 16, 2012, this fee is deemed unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3684 for processing the RCE and for consideration of the Information Disclosure Statement submitted on January 16, 2012.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6909571
Issue Date: June 21,2005
Application No. 10294326
Filed: November 14,2002
Attorney Docket No. 139-023

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6909571	2005-06-21	10294326	2002-11-14	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2010-12-08
Name	Benoit CASTEL	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Brent S. Whitmore et al. :
Application No. 10/294,363 : DECISION ON PETITION
Filed: November 13, 2002 : TO WITHDRAW
Attorney Docket No. NAI1P233/02.170.01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC, has been revoked by the assignee of the patent application on March 12, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Patent Capital Group
6119 McCommas Blvd.
Dallas, TX 75214

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7317077	2008-01-08	10294891	2002-11-15	063307-0389555

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Patrick A. Doody/	Date (YYYY-MM-DD)	2012-02-22
Name	Patrick A. Doody	Registration Number	35022

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7317077
Issue Date: January 8,2008
Application No. 10294891
Filed: November 15,2002
Attorney Docket No. NYM-006

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 22,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 22,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL E. SCHAAFIMA
521 WEST SUPERIOR
UNIT 221
CHICAGO IL 60610

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of :
MARLOWE-NOREN :
Application No. 10/295,087 : DECISION ON PETITION
Filed: November 15, 2002 :
Docket No. 024612-0104 :

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 13, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) and the required statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on March 20, 2008, was subsequent to the maximum extendable period for reply, this fee is unnecessary and petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 3692 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP L BATEMAN
P O BOX 1105
DECATUR IL 62525

MAILED
JUN 13 2011
OFFICE OF PETITIONS

In re Patent No. 6,652,011	:	
Issue Date: November 25, 2003	:	
Application No. 10/295,318	:	NOTICE
Filed: November 15, 2002	:	
Attorney Docket No. FLEX-N-GATE	:	

This is a notice regarding your request, April 13, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

Petitioner should note that the request is signed by the attorney of record; however, it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his registration number.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
David B. Avner
Application No. 10/295,903
Filed: November 18, 2002
Attorney Docket No. 040065-0105

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

The request cannot be approved because practitioners were not appointed by customer number.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: DAVID B. AVNER
2769 SOUTHSHIRE ROAD
HIGHLANDS RANCH, CO 80126

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/296,246	07/14/2003	Naim Karazivan	P1009US00	6669

39500 7590 12/15/2010

Anglehart et al.
Suite 258
393 St-Jacques
Montreal, QC H2Y 1N9
CANADA

EXAMINER	
SINGH, SUNIL K	

ART UNIT	PAPER NUMBER
3732	

NOTIFICATION DATE	DELIVERY MODE
12/15/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

james.anglehart@anglehart.et-al.ca
martine@anglehart.et-al.ca

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Anglehart et al.
Suite 258
393 St-Jacques
Montreal QC H2Y 1N9 CA CANADA

In re Application of:
KARAZIVAN, NAIM
Serial No.: 10/296,246
Filed: July 14, 2003
Docket: P1009US00
Title: APPLICATOR AND METHOD FOR APPLYING A SEALING AGENT ON SMOOTH DENTAL SURFACE, IN PARTICULAR ON INTERPROXIMAL SURFACES

DECISION ON PETITION

This is a decision on the petition filed on Dec. 8, 2010 seeking withdrawal of the finality of the Office action mailed June 10, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the December 8, 2010 petition, the petitioner requests the finality of the Office action of June 10, 2010 be reconsidered and withdrawn because the applicant believes that the final rejection was premature. In particular, petitioner argues that the examiner has relied on common general knowledge as a new basis for the rejection of the claims. Therefore, petitioner believes the rejection is improper.

A further review of the file record shows that the instant petition was filed more than six months after the mailing date of the final Office action of June 10, 2010. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of June 10, 2010 will not be granted. Based on the reasons as stated above,

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

petitioner's request to withdraw the finality of the Office action dated June 10, 2010 is hereby dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Nokia Corporation and Alston & Bird LLP
c/o Alston & Bird LLP
Bank of America Plaza, 101 South Tryon Street
Suite 4000
Charlotte NC 28280-4000

MAILED
NOV 18 2011
OFFICE OF PETITIONS

In re Patent No. 8,009,816	:	DECISION ON REQUEST FOR
Syrjala et al.	:	RECONSIDERATION OF
Issue Date: August 30, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/296,477	:	and
Filed: April 8, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.: 042933/373883	:	CERTIFICATE OF CORRECTION
Title: ARRANGING SUBSCRIBER BILLING IN TELECOMMUNICATION SYSTEM	:	

This is a decision on the petition filed on October 31, 2011[1] pursuant to 37 C.F.R. § 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be changed from three hundred and ninety-three (393) days to five hundred and ninety-six (596) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and ninety-six (596) days is **GRANTED**.

BACKGROUND

On August 30, 2011, the above-identified application matured into US Patent No. 8,009,816 with a patent term adjustment of 393 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

[1] It is noted that October 30, 2011 fell on a Sunday.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentee disputes four calculations:

1. Patentee asserts that one period of adjustment was improperly calculated;

2. Patentee asserts that two additional periods of reduction should have been assessed;

3. Patentee asserts that one period of reduction was improperly calculated, and;

4. Patentee asserts that the B-delay was improperly calculated

Regarding the first item that is in dispute, Patentee asserts that the period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) should total 470 (not 775) days: the Office agrees. This application was filed pursuant to 35 U.S.C. § 371, and has a fulfillment date of April 8, 2003. The Office mailed an action under 35 U.S.C. § 132 fourteen months and 470 days later on September 21, 2005. This warrants an adjustment of 470 days, pursuant to 37 C.F.R. § 1.703(a)(1).

Regarding the second item that is in dispute, Patentee asserts that the submission of a Request for Continued Examination (RCE) on June 21, 2007, warrants a reduction of 58 days (not zero days): the Office agrees. The Office mailed a final Office action on January 24, 2007. A RCE was submitted to the Office three months and 58 days later on June 21, 2007: this warrants a reduction of 58 days, pursuant to 37 C.F.R. § 1.704(b).

Patentee has further asserted that the submission of an Information Disclosure Statement (IDS) on August 8, 2007 warrants a reduction of 48 (not zero) days: the Office agrees. As set forth above, a RCE was filed on June 21, 2007. An IDS was submitted 48 days later on August 8, 2007. This supplemental reply warrants a reduction of 48 days, pursuant to 37 C.F.R. § 1.704(c)(8).

Regarding the third item that is in dispute, Patentee asserts that the submission of an IDS on December 3, 2009 warrants a reduction of zero days, not 66 days: the Office agrees. A

response to a non-final Office action was submitted to the Office on September 28, 2009. An IDS was submitted 66 days later on December 3, 2009, and a reduction of 66 days was assessed pursuant to 37 C.F.R. § 1.704(c)(8). Patentee asserts that this reduction was improper, as the submission of December 3, 2009 contains the language set forth in 37 C.F.R. § 1.704(d). Patentee's argument has been considered and it has been deemed to be persuasive: the relevant language can be found in the paragraph bridging the first and second pages of the transmittal letter that was submitted contemporaneously with the IDS of December 3, 2009. Accordingly, the submission of the IDS on December 3, 2009 does not warrant a reduction pursuant to 37 C.F.R. § 1.704(c)(8).

However, a review of the record reveals that one additional reduction is warranted: an IDS was submitted to the Office on October 22, 2009, which is 24 days after the submission of the aforementioned September 28, 2009 submission. The October 22, 2009 IDS has been reviewed, and the language set forth in 37 C.F.R. § 1.704(d) has not been located therein. As such, the supplemental IDS of October 22, 2009 warrants a reduction of 24 days, pursuant to 37 C.F.R. § 1.704(c)(8).

Regarding the fourth item that is in dispute, Patentee argues that the B-delay should total 572 (not zero) days: the Office agrees. This application has a priority date of May 25, 2000, which results in a commencement date of November 25, 2002. The RCE of June 21, 2007 was filed three years and 573 days after the commencement date. This results in a B-delay of 572 days, as the date on which the RCE is filed is not included in the B-delay.

It follows that the Office agrees that the patent term adjustment totals 596 (470 examination delay plus 572 B delay minus zero overlap minus 446[2] applicant delay) days.

The patent is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and ninety-six (596) days.**

[2] 57 + 88 + 58 + 48 + 57 + 24 + 27 + 2 + 24 + 61 = 446.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,009,816 B2

DATED : **August 30, 2011** **DRAFT**

INVENTOR(S) : **Syrjala et al. et al.**

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 393 days

Delete the phrase "by 393 days" and insert – by 596 days --

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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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Browdy and Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington DC 20006

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Application of :
Gnedenko et al. :
Application No. 10/296819 :
Filing or 371(c) Date: 05/05/2003 : ON PETITION
Patent No. 6763772 :
Issue Date: 07/20/2004 :
Title of Invention: :
APPARATUS FOR :
PROCESSING WASTE :

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

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

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

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

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ROACH BROWN MCCARTHY & GRUBER, P.C.
424 MAIN STREET
1920 LIBERTY BUILDING
BUFFALO, NY 14202

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006-5403

MAILED

DEC 15 2011

OFFICE OF PETITIONS

In re Application of :
Peter THEISS :
Application No. 10/296,934 : ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. P7452-1001-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 1, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 2, 2009. A Notice of Abandonment was mailed March 31, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that places the application in condition for allowance; (2) the petition fee of $930; and (3) the required statement of unintentional delay have been received.

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

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The Amendment filed with the petition dated October 26, 2011, has been approved by the Examiner assigned to the above-identified application.

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

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ANDREA L.C. ROBIDOUX
CHOATE, HALL & STEWART LLP, PATENT GROUP
TWO INTERNATIONAL PLACE,
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/297,371	10/06/2003	Michael C. Carroll	CRA-004.01.	1639

25181 7590 02/23/2011

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

EXAMINER	
SCHWADRON, RONALD B	
ART UNIT	PAPER NUMBER
1644	

NOTIFICATION DATE	DELIVERY MODE
02/23/2011	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent@foleyhoag.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FEB 2 3 2011

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

In re Application of :
Carroll et al. :
Serial No.: 10/297,371 : Decision on Petition
Filed: December 5, 2002 :
Attorney Docket No.: **CRA-004.01.**

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on January 18, 2011, to reverse the examiner's refusal to enter the after final amendment.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on May 17, 2010. Claims 1-13, 23, 48, 50-63 and 80-90 were pending. Claims 57 and 63 were rejected and claims 1-13, 23, 48, 50-56, 58-62 and 80-90 were withdrawn from consideration. Claims 57 and 63 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 57 and 63 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement.

A Notice of Appeal was filed on November 17, 2010.

On November 17, 2010, applicants submitted an after final amendment including claim amendments and remarks.

On November 30, 2010, the examiner mailed to applicants an advisory action indicating that the after final amendment would not be entered because the amendments were not in compliance with 37 CFR 1.121.

On December 17, 2010, applicants submitted a second after final amendment including claim amendments and remarks.

On January 14, 2011, the examiner mailed to applicants a second advisory action indicating that the after final amendment would not be entered because new issues that require further consideration and/or search to determine patentability were raised.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue "The only issue raised by the Examiner and the only reason provided by the Examiner for refusing entry of the Amendment pertains to the amendment of withdrawn, independent claim 90. The amendment to claim 90 was made to add the phrase "...or a humanized immunoglobulin thereof."

Specifically, applicants point out that "In the present case, the Examiner has not established that claim 90 would lack "a discernible meaning" or would be "insolubly ambiguous." Indeed, the meaning of the phrase "humanized immunoglobulin thereof" in reference to an immunoglobulin produced by a murine hybridoma would be well-understood by the person of ordinary skill in the art and reflects an adopted norm for referring to humanized immunoglobulins. The person of skill in the art understands that humanized immunoglobulins, by definition, include one or more regions of an immunoglobulin chain generated from a non-human species. While it may be true that the deposited hybridoma itself does not secrete a humanized immunoglobulin, it is believed that the person of skill in the art would appreciate that a humanized immunoglobulin can be "produced from," or "derivatized from," the deposited immunoglobulin. The person of skill in the art would readily appreciate that claim 90 encompasses a humanized version of the immunoglobulin secreted by the recited hybridoma. There is no ambiguity associated with the recitation of "humanized immunoglobulin thereof' because there is no other meaning that could be attributed to a humanized immunoglobulin of an immunoglobulin produced by a murine cell. As such, amendment to claim 90 would not raise a new issue under 35 USC 112, second paragraph since the meaning of the phrase "humanized immunoglobulin thereof would readily understood by the person of ordinary skill in the art." Applicants also argue "The amendment to claims 57, 63 and 90 provides antecedent basis in claim 90 for a humanized immunoglobulin. Entry of the amendment would therefore reduce an issue for appeal because it would remove the rejection under 35 USC 112, second paragraph from the issues on appeal."

Applicants' arguments are well-taken and found persuasive that the after final amendment of December 17, 2010 was improperly denied consideration and entry.

DECISION

The petition is **GRANTED.** The advisory action mailed January 14, 2011, indicating that the after final amendment of December 17, 2010 would not be entered is hereby **VACATED**.

The application will be forwarded to the examiner for consideration of the amendment after final wherein the examiner will consider whether to allow the application or prepare a

new advisory action indicating that the after final amendment of December 17, 2010 will be entered but still not allowed. Since a Notice of Appeal has been filed, applicants are still required to file a brief in compliance with 37 CFR 41.37 within two months of the date of the filing of the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal.

Should there be any questions about this decision, please contact Special Program Examiner Marianne Seidel, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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FOLEY HOAG, LLP
PATENT GROUP,
WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Application of :
CARROLL :
Application No. 10/297,371 : DECISION ON PETITION
Filed: June 6, 2008 : TO WITHDRAW
Attorney Docket No. CRA-004.01. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 2011.

The request is **APPROVED**.

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

The request was signed by Beth E. Arnold on behalf of the attorneys of record associated with Customer Number 25181.

The attorneys of record associated with Customer Number 25181 have been withdrawn.

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

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

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

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

cc: IMMUNE DISEASE INSTITUTE, INC.
3 BLACKFAN CIRCLE
BOSTON MA 02115

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/297,371	10/06/2003	Michael C. Carroll	CRA-004.01.

CONFIRMATION NO. 1639

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

POWER OF ATTORNEY NOTICE

OC000000047671942

Date Mailed: 05/16/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2011.

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

/dcgoodwyn/

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

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C/O MERCK
2000 GALLOPING HILL ROAD
MAIL STOP: K-6-1, 1990
KENILWORTH NJ 07033

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DEC 07 2010

OFFICE OF PETITIONS

In re Application :
Hubert Jan Loozen et al. :
Application No. 10/297,706 : DECISION ON APPLICATION
Filed: December 6, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 2000.559US :

This is in response to theREQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705 (b) filed November 18, 2010. Applicant requests that the determination of patent term adjustment be corrected from 5 to 472 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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MAIL STOP: K-6-1, 1990
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FEB 10 2011

OFFICE OF PETITIONS

In re Application :
Hubert Jan Loozen et al. :
Application No. 10/297,706 : DECISION ON APPLICATION
Filed: December 6, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 2000.559US :

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b) filed on February 4, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 321 days to 472 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 6, 2005 and ends on March 18, 2007, the day before the RCE was filed, the B delay would be 467 days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee fails to account for the filing of a Notice of Appeal on October 19, 2006, and the subsequent filing of the RCE on March 18, 2007. The 467 days of the over three year period therefore would be consumed by appellate review, beginning on October 19, 2006 and ending on March 18, 2007. The time for appellate review is excluded (467-151); thus the "B delay is 316 days. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 321 days (503 "A delay days" + 316 "B delay days" (467-151) - 498 Applicant delay days), not 472 days.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,129,926 :
Issued: October 31, 2006 :
Application No. 10/297,743 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 2800-114 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 15, 2011.

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

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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1425 K STREET NW
SUITE 800
WASHINGTON DC 20005

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MAR 29 2011

OFFICE OF PETITIONS

In re
Application No. 10/297,744
Filed: April 28, 2003
Patent No. 7,184,581
Issued: February 27, 2007

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed February 15, 2011.

The fee deficiency submission under 37 CFR 1.28 of $490 for the four year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

$490 has been charged to Deposit Account No. 02-2135, as authorized.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No.

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,653,594	:	DECISION ON REQUEST
Mark Davis	:	FOR
Issue Date: January 26, 2010	:	RECONSIDERATION OF
Application No. 10/297,914	:	PATENT TERM ADJUSTMENT
Filed: June 13, 2003	:	and
Atty Docket No.PIP-120-DAVI-US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 4, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eight hundred forty-three (1843) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand nine hundred forty-eight (1948)** days.

The over three year period is 1323 days (not 1327), counting the number of days in the period beginning on June 14, 2006, the day after the date three years after the early commencement date of this international application, and ending on January 26, 2010, the date of issuance of the patent. Further, the period beginning on the date on which a notice of appeal was filed, March 28, 2009 and ending on the date of mailing of the Office

action mailed August 6, 2009, is not included in the calculation of B delay. This period is 132 days. In addition, the Office has determined that 525 days of B delay overlap with the A delay. Considering the 132 days excluded for appellate review and the 525 days of overlap, the patent term adjustment is increased by 666 (1323 - 132 - 525) days for B delay.

Furthermore, a review of the record reveals that entry of a period of reduction of 120 days, pursuant to 37 CFR 1.704(c)(10), for the filing of a letter on September 24, 2009 is not warranted. As stated in MPEP 2731, the submission of the a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. The paper filed September 24, 2009 pointed out an error in the Notice of Allowability, inasmuch as it required corrected drawings when none were required. As such, it is determined that the filing of this paper was not a failure to engage within the meaning of 37 CFR 1.704(c)(10). Accordingly, the period of reduction of 120 days has been removed.

In view thereof, the revised patent term adjustment is 1948 (1162 + 666 + 120) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand nine hundred forty-eight **(1948)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,653,594 B2

DATED : **January 26, 2010** **DRAFT**

INVENTOR(S) : Davis

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1162 days

Delete the phrase "by 1162 days" and insert – by 1948 days--

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

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AUG 2 4 2010

OFFICE OF PETITIONS

In re Patent No. 7,319,148 :
Issue Date: January 15, 2008 :
Application No. 10/297,999 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. 05069.0005 :

This is a decision on the petition filed September 17, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The Office regrets the delay in replying to the above matter.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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AUG 0 9 2010

OFFICE OF PETITIONS

In re Application of :
Ryuichi Shiohara :
Application No. 10/298,085 : DECISION GRANTING PETITION
Filed: November 18, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q72643 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. John Bird appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Bird desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

---

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

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW
April M. Wise
Petitions Examiner
Office of Petitions

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JAN 20 2011

OFFICE OF PETITIONS

In re Application of
Ryuichi Shiohara
Application No. 10/298,085
Filed: November 18, 2002
Attorney Docket No. Q72643

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 19, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 15, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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SAN FRANCISCO CA 94111-3834

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Patent No. 6,855,277
Issue Date: February 15, 2005
Application No. 10/298,143
Filed: November 15, 2002
Attorney Docket No. 020681-000320US

LETTER

This letter is the result of a sua sponte review of the January 4, 2010 electronically filed petition under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee in the above-identified application.

A review of USPTO records reveals that the "Petition To Accept Unintentionally Delayed Payment Of Maintenance Fee In An Expired Patent (37 CFR 1.378(c)" and the accompanying "Electronic Patent Application Fee Transmittal" submission filed January 4, 2010 were erroneously accepted. Petitioner has not submitted a renewed petition under 37 CFR 1.378(c), as required in the petition decision mailed October 23, 2009 along with the required $400.00 reconsideration fee. Therefore, a petition for reconsideration under 37 CFR 1.378(e) along with the required $400.00 reconsideration fee must be filed within **TWO (2) MONTHS** from the mail date of this letter.

If applicant fails to submit the above, the electronically filed, January 4, 2010 , petition under 37 CFR 1.378(c) will be **VACATED** and the status will be changed to indicate that the above-identified patent is expired.

The renewed petition cannot be filed using the ePetition format but must instead be filed to the Office of Petitions for consideration.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

WILLIAM A. HERIOT
42 DIGITAL DR. #6
NOVATO, CA 94949

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SAN FRANCISCO CA 94111-3834

MAILED
APR 10 2012
OFFICE OF PETITIONS

In re Patent No. 6,855,277 :
Issue Date: February 15, 2005 :
Application No. 10/298,143 : ON PETITION
Filed: November 15, 2002 :
For: METHOD AND APPARATUS FOR :
LIPOSOME PRODUCTION :

This is a decision on the "PETITION FOR RECONSIDERATION UNDER 37 CFR 1.378(e)," filed March 26, 2012, and Supplemental to the petition filed January 4, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this patent application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

STEVENS LAW GROUP
1754 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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

Ben Aaron Berman
160 East 93rd Street
New York, NY 10128

MAILED

AUG 0 3 2010

OFFICE OF PETITIONS

In re Patent of :
James Berman and Ben Aaron Berman :
Patent No. 6,735,825 :
Issue Date: May 18, 2004 :
Application No. 10/298,411 :
Filing Date: November 18, 2002 :
For: Secured Pen and Holder :

Decision

This is a decision on the petition filed April 15, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The patent issued May 18, 2004. The last day of the grace period for paying the 3.5 year maintenance fee was May 19, 2008. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DOCKETING
ROOM 2A-207, ONE AT& T WAY
BEDMINSTER, NJ 07921

MAILED

APR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Hui Luo	:	
Application No. 10/298,485	:	ON PETITION
Filed: November 18, 2002	:	
Attorney Docket No. 2001-0539	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed July 2, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 3, 2009. A Notice of Abandonment was mailed February 3, 2010.

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center 2617 for further examination on the merits.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KINWAH TONG
WALL & TONG, LLP
25 JAMES WAY
EATONTOWN, NJ 07724

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,584,890	2003-07-01	10/299,221	2002-11-19	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Anthony L. Rahhal/	Date (YYYY-MM-DD)	2011-08-31
Name	Anthony L. Rahhal	Registration Number	37562

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6584890
Issue Date: July 1,2003
Application No. 10299221
Filed: November 19,2002
Attorney Docket No. 30676/249996

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 31,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 31,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6928845
Issue Date: August 16,2005
Application No. 10299272
Filed: November 18,2002
Attorney Docket No. 101449.0002US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 21,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 21,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6928845	2005-08-16	10299272	2002-11-18	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Greg Howard/	Date (YYYY-MM-DD)	2011-01-21
Name	Greg Howard		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,588,328	2003-07-08	10/299,416	2002-11-19	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
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○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

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STATEMENT

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Anthony L. Rahhal/	Date (YYYY-MM-DD)	2011-08-31
Name	Anthony L. Rahhal	Registration Number	37562

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6588328
Issue Date: July 8,2003
Application No. 10299416
Filed: November 19,2002
Attorney Docket No. 30676/249995

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 31,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 31,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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In re Patent No. 7136448
Issue Date: November 14,2006
Application No. 10299603
Filed: November 18,2002
Attorney Docket No. OIC0102US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,136,448	2006-11-14	10299603	2002-11-18	OIC0102US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ Sam G. Campbell III /	Date (YYYY-MM-DD)	2010-12-22
Name	Samuel G. Campbell, III	Registration Number	42381

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of :
Fred H. Burbank, et al. :
Application No. 10/300,115 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No: ETH5281USCIP2 :

This is a decision on the petition, filed September 14, 2011, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 2, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 2, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 3, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10300115
Filing Date	19-Nov-2002
First Named Inventor	Fred Burbank
Art Unit	3731
Examiner Name	TUAN NGUYEN
Attorney Docket Number	ETH5281USCIP2
Title	METHOD AND APPARATUS FOR THE DETECTION AND OCCLUSION OF BLOOD VESSELS

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☒ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◯ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◉ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Melissa J. Szanto/
Name	Melissa J. Szanto
Registration Number	40834

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 4,2011

In re Application of :

Fred Burbank

Application No : 10300115

Filed : 19-Nov-2002

Attorney Docket No : ETH5281USCIP2

DECISION ON PETITION

UNDER CFR 1.313(c)(3)

This is an electronic decision on the petition under 37 CFR 1.313(c)(3), filed November 4,2011 ,to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7003355
Issue Date: February 21,2006
Application No. 10300342
Filed: November 20,2002
Attorney Docket No. 5082-001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 1,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 1,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7003355	2006-02-21	10300342	2002-11-20	FREEH8.002AUS

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Karoline A. Delaney/	Date (YYYY-MM-DD)	2011-11-01
Name	Karoline A. Delaney	Registration Number	44058

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. VOTOLATO, EARL
Issue Date: 3/31/2009
Appl No.: 10/300,382
Filed: November 19, 2002
For: SAFETY CUTTING APPARTUS

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed 8/10/2010 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Boyer D. Ashley/

Boyer D. Ashley
Supervisory Patent Examiner
Art Unit 3724
Technology Center 3724

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1000
Irvine, CA 92614-6232

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DATE: January 31, 2011
TO: Certificates of Correction Branch
FROM: Boyer D. Ashley
SPE, Art Unit 3724
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,509,742 as specified on the attached Certificate.

/Boyer D. Ashley/

Boyer D. Ashley, SPE
Art Unit 3724

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,509,742
Patented: March 31, 2009

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

David A. Sharbaugh
Earl J. Votolato

/Boyer D. Ashley/

Boyer D. Ashley
Supervisory Patent Examiner
Art Unit 3724

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOLTZ, HOLTZ, GOODMAN & CHICK PC
220 FIFTH AVENUE
16TH FLOOR
NEW YORK NY 10001-7708

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,065,984	:	
Issued: June 27, 2006	:	
Application No. 10/300,383	:	DECISION ON PETITION
Filed: November 20, 2002	:	
Attorney Docket No. 02673/LH	:	

This is a decision on the petition, filed July 27, 2010, which will be treated under 37 CFR 1.182, to correct the spelling of the name of inventor "Kensuki Matsuno" to – Kensuke Matsuno – by way of a Certificate of Correction.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. As authorized, the $100.00 Certificate of Correction fee will be charged to petitioner's deposit account.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 19 2011

OFFICE OF PETITIONS

Legal Department (M-495)
P.O. Box 1926
Spartanburg SC 29304

In re Patent No. 6,722,000 :
Issued: April 20, 2004 :
Application No.: 10/300,464 : NOTICE
Filed: November 20, 2002 :
Attorney Docket No: **04615-0100 32,233** :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WOLFF & SAMSON, P.C.
ONE BOLAND DRIVE
WEST ORANGE NJ 07052

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of :
Paul Friedli :
Application No. 10/300,497 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No: 11596-0022 :

This is a decision on the petition filed December 1, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed January 21, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned April 22, 2010. Accordingly, a Notice of Abandonment was mailed September 3, 2010.

This matter is being referred to Technology Center 2612 for appropriate action on the amendment filed December 1, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

JUN 29 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,122,522 :
Issue Date: October 17, 2006 :
Application No. 10/300,530 :
Filed: November 20, 2002 :
Attorney Docket No. **29708-505002US** :

This is a decision on the petition filed July 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,220,402 :
Application No. 10/300,531 :
Filed: November 20, 2002 : ON PETITION
Issued: May 22, 2007 :
Attorney Docket No. 29708-505003US :

This is a decision on the petition filed July 7, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Additionally, petitioner's deposit account has been charged the required $100.00 Certificate of Correction fee as authorized July 7, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVAK DRUCE AND QUIGG, LLP (Thule)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,168,590 :
Issue Date: January 30, 2007 :
Application No. 10/300,968 : NOTICE
Filed: November 21, 2002 :
Attorney Docket No. 8293.004.CPU00 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Patent No. 6,989,238	:	
Issue Date: January 24, 2006	:	
Application No. 10/301,245	:	DECISION ON PETITION
Filed: November 21, 2002	:	
Attorney Docket No. 5175-93CT	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 21, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

37 CFR 3.71(c) states:

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office. Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **E. VICTOR DONAHUE**
PFIZER INC.
LEGAL DEPARTMENT
150 EAST 42nd STREET, 2ND FLOOR
NEW YORK, NY 10017

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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

MAILED
FEB 16 2011
OFFICE OF PETITIONS

In re Patent No. 6,989,238
Issue Date: January 24, 2006
Application No. 10/301,245
Filed: November 21, 2002
Attorney Docket No. PC19664B

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.378(c), filed December 17, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 24, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The power of attorney filed by the assignee with the petition on December 17, 2010, has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

MAILED
DEC 17 2010
OFFICE OF PETITIONS

In re Application of :
Robert B. Staszewski, et al. :
Application No. 10/302,029 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No.: TI-33501 :

This is a decision in response to the petition, filed September 13, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

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

It is noted that an amendment in response to the final Office action mailed February 8, 2010, was included with the petition filed on September 13, 2010; however, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[3]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

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

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/302,029	**Applicant(s)** STASZEWSKI ET AL.	
	Examiner LINDA WONG	**Art Unit** 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☒ Newly proposed or amended claim(s) *6-12 and 26-31* would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Claims 1-4,13-14,23-24,32-33 are not considered allowable as stated in the final rejection mailed 2/8/2010. Claim 5 has been amended as well as cancelled. The examiner is unclear as to whether the claim is cancelled or amended for consideration. If the claim is amended for consideration, the claim is not considered allowable as stated in the final rejection mailed 2/8/2010.

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MAR 11 2011

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Robert B. Staszewski, et al. :
Application No. 10/302,029 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No.: TI-33501 :

This is a decision in response to the petition filed November 17, 2010, which is being treated as a renewed petition to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 8, 2010. On September 13, 2010 a petition to revive under the provisions of 37 CFR 1.137(b) was filed. The petition was subsequently dismissed in a decision mailed December 17, 2010, since the amendment did not place the application in condition for allowance.

The petition now complies with the requirements of 37 CFR 1.137(b) in that petitioner has submitted (1) the required reply in the form of a Notice of Appeal and appeal fee; (2) the requisite petition fee; and (3) an adequate statement of unintentional delay.

Petitioner should note that, since no further petition fee is required on a renewed petition, .the $1,620 fee submitted with the present petition is being refunded to counsel's deposit account.

This application is being referred to Technology Center AU 2611 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAILED
AUG 26 2011
OFFICE OF PETITIONS

Kilpatrick Townsend & Stockton LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Patent No. 7,554,669	:
Fontura et al.	: DECISION UPON REMAND AND
Issue Date: June 9, 2009	: RECONSIDERATION OF
Application No. 10/302,098	: PATENT TERM ADJUSTMENT
Filed: November 21, 2002	: AND NOTICE OF INTENT
Attorney Docket No. 022259-000710US	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Polynucleotide Therapy	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand and forty-two (1042) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand and (1042) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,544,669 B2

DATED : **June 9, 2009** **DRAFT**

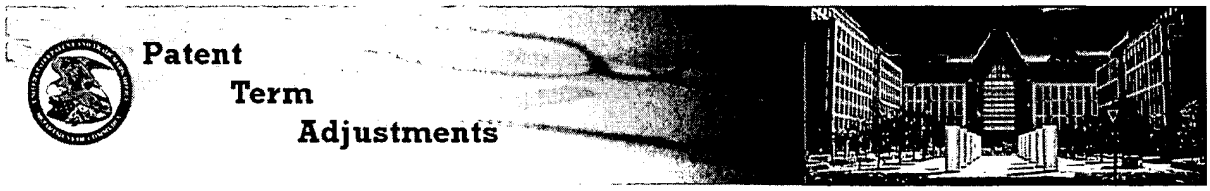
INVENTOR(S) : Fontoura et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 481 days

Delete the phrase "by 1042 days" and insert – by 1042 days--



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10302098 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10302098

Application Filing Date	11/21/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	06/09/2009	Non-Overlapping USPTO Delays:	719
A Delays	719	PTO Manual Adjustment	561
B Delays	0	Applicant Delay (APPL)	238
C Delays	0	Total PTA (days)	1042

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
103	08/16/2011		P028	Adjustment of PTA Calculation by PTO	561		0
94	06/09/2009		PTAC	Patent Issue Date Used in PTA Calculation			0
94.5	05/20/2009	11/21/2005	PTA36M	PTA 36 Months	0		0
93	05/04/2009		EFDC	Export to Final Data Capture			0
92	04/30/2009		D1935	Dispatch to FDC			0
91	04/30/2009		PILS	Application Is Considered Ready for Issue			0
90	04/29/2009		N084	Issue Fee Payment Verified			0
89	04/29/2009		IFEE	Issue Fee Payment Received			0
88	04/22/2009		MM327	Mail Miscellaneous Communication to Applicant			0
87	04/21/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
86	04/13/2009		IDSC	Information Disclosure Statement considered			0
85	04/13/2009		M844	Information Disclosure Statement (IDS) Filed		10	88
84	04/13/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
83	03/27/2009		FIDC	Finished Initial Data Capture			0
82	02/12/2009		CRFT	Sequence Forwarded to Pubs on Tape			0
81	02/02/2009		EIDC	Export to Initial Data Capture			0
80	01/30/2009	12/25/2008	MN/=.	Mail Notice of Allowance	36		74
79	01/09/2009		DVER	Document Verification			0
78	01/09/2009		IREV	Issue Revision Completed			0
77	01/09/2009		N/=.	Notice of Allowance Data Verification Completed			0
76	01/05/2009		CNTA	Allowability Notice			0
75	09/23/2008		FWDX	Date Forwarded to Examiner			0
73	09/23/2008		CRFE	CRF Is Good Technically / Entered into Database			0
74	08/25/2008		A...	Response after Non-Final Action			0
72	06/04/2008	02/22/2008	MCTNF	Mail Non-Final Rejection	103		67
71	05/27/2008		CTNF	Non-Final Rejection			0
70	03/12/2008		FWDX	Date Forwarded to Examiner			0
68	03/12/2008		FWDX	Date Forwarded to Examiner			0
66	03/12/2008		ABN9	Disposal for a RCE / CPA / R129			0
69	10/22/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
67	10/22/2007		RCEX	Request for Continued Examination (RCE)			0
59	10/22/2007		BRCE	Workflow - Request for RCE - Begin			0
58	08/23/2007		MCTNF	Mail Non-Final Rejection			0
57	08/20/2007		CTNF	Non-Final Rejection			0
53	06/13/2007		FWDX	Date Forwarded to Examiner			0
51	06/13/2007		FWDX	Date Forwarded to Examiner			0
49	06/13/2007		ABN9	Disposal for a RCE / CPA / R129			0
56	06/05/2007		IDSC	Information Disclosure Statement considered			0
55	06/05/2007		RCAP	Reference capture on IDS			0
54	06/05/2007		M844	Information Disclosure Statement (IDS) Filed			0
52	06/05/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
50	06/05/2007		RCEX	Request for Continued Examination (RCE)			0
48	06/05/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
47	06/05/2007		BRCE	Workflow - Request for RCE - Begin			0
46	03/08/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
45	03/05/2007		CTFR	Final Rejection			0
43	12/27/2006		FWDX	Date Forwarded to Examiner			0
44	12/18/2006		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
42	12/18/2006	09/13/2006	A...	Response after Non-Final Action		96	40
41	12/18/2006		XT/G	Request for Extension of Time - Granted			0
40	06/13/2006		MCTNF	Mail Non-Final Rejection			0
39	06/10/2006		CTNF	Non-Final Rejection			0
38	04/05/2006		FWDX	Date Forwarded to Examiner			0
37	03/28/2006		A...	Response after Non-Final Action			0
36	03/16/2006		MCTMS	Mail Miscellaneous Communication to Applicant			0

35	03/14/2006		CTMS	Miscellaneous Action with SSP			0
34	02/08/2006		IDSC	Information Disclosure Statement considered			0
31.7	02/08/2006	12/20/2005	M844	Information Disclosure Statement (IDS) Filed		50	29
31	02/08/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
30	01/17/2006		FWDX	Date Forwarded to Examiner			0
29	12/20/2005	09/30/2005	ELC.	Response to Election / Restriction Filed		81	26
28	12/12/2005		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
27	10/06/2005		FWDX	Date Forwarded to Examiner			0
26.1	09/30/2005		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
26	09/30/2005		ELC.	Response to Election / Restriction Filed			0
25	09/30/2005		XT/G	Request for Extension of Time - Granted			0
24	08/23/2005	01/21/2004	MCTRS	Mail Restriction Requirement	580		-1
23	08/22/2005		CTRS	Restriction/Election Requirement			0
22	06/28/2005		DOCK	Case Docketed to Examiner in GAU			0
21	03/02/2005		C.AD	Correspondence Address Change			0
20	03/02/2005		PA..	Change in Power of Attorney (May Include Associate POA)			0
19	01/26/2004		LET.	Miscellaneous Incoming Letter			0
17	09/03/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	08/06/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
33	07/11/2003		IDSC	Information Disclosure Statement considered			0
18.7	07/11/2003		M844	Information Disclosure Statement (IDS) Filed			0
18	07/11/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
13	07/02/2003		DOCK	Case Docketed to Examiner in GAU			0
12	04/30/2003		OIPE	Application Dispatched from OIPE			0
11	04/29/2003		COMP	Application Is Now Complete			0
32	04/28/2003		IDSC	Information Disclosure Statement considered			0
15.7	04/28/2003		M844	Information Disclosure Statement (IDS) Filed			0
15	04/28/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
6	04/28/2003		CRFE	CRF Is Good Technically / Entered into Database			0
14	04/14/2003		A.PE	Preliminary Amendment			0
10	04/14/2003	04/13/2003	ADDFLFEE	Additional Application Filing Fees		1	4
9	04/14/2003		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
8	04/14/2003		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
7	04/14/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	04/03/2003		L130	Receipt of all Acknowledgement Letters			0
4	01/13/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	12/31/2002		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated			0
2	11/29/2002		SCAN	IFW Scan & PACR Auto Security Review			0
1	11/21/2002		IEXX	Initial Exam Team nn			0

Export to: Excel

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MINNEAPOLIS MN 55440-1022

MAILED
AUG 24 2010
OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Graessle, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/302,767	: AND NOTICE OF INTENT
Filed: November 21, 2002	: TO ISSUE
Patent No. 7,715,895	: CERTIFICATE OF CORRECTION
Issued: May 11, 2010	:

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed June 21, 2010. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred forty-nine (149) days to one hundred seventeen (117) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred seventeen (117)** days.

On May 11, 2010, the above-identified application issued into Patent No. 7,715,895 with a patent term adjustment of one hundred forty-nine (149) days. The instant application for patent term adjustment was timely filed pursuant to 37 C.F.R. § 1.705(d).

The Office determined a patent term adjustment of one hundred forty-nine (149) days based on an adjustment for PTO delay of five hundred thirty-eight (538) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR § 1.703(a)(1), and one hundred four

(104) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR § 1.703(b), reduced by one hundred twenty-four (124), ninety-five (95), ninety-two (92), ninety-one (91), ninety (90), and one (1) days of applicant delay, all pursuant to 37 CFR § 1.704(b).

However, Patentees point out that additional applicant delay should have been assessed for an RCE filed on March 6, 2006. A review of the application file in the Image File Wrapper reveals that Patentees are correct. The Office mailed a final Office action on November 2, 2005, to which applicants responded by filing an RCE on March 6, 2006. Accordingly, thirty-two (32) days of Applicant delay pursuant to 37 CFR § 1.704(b) should have been assessed for this late filing.

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate. The correct number of days of patent term adjustment is one hundred seventeen (117) days (642 (538+104) days of PTO delay, reduced by 525 (124+32+95+92+91+90+1) days of applicant delay).

The $200 fee for filing the instant application for patent term adjustment under 37 CFR 1.705(d) has been charged to Deposit Account No. 06-1050, as authorized.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 CFR § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred seventeen (117)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,715,895 B2

DATED : **May 11, 2010**

INVENTOR(S) : Graessle et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 149 days.

Delete the phrase "by 149 days" and insert – by 117 days--

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
Catherine C. Long :
Application No. 10/303,102 : DECISION GRANTING PETITION
Filed: November 25, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 058010-0300448 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 7, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application, as set forth in the concurrently filed Application Data Sheet (ADS) and Amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an ADS and to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3691 for appropriate action on the ADS and Amendment submitted July 7, 2010, including consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/303,102	11/25/2002	3691	2132	058010-0300448	76	4

CONFIRMATION NO. 2054

CORRECTED FILING RECEIPT

909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

OC00000004348197 3

Date Mailed: 09/14/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Catherine C. Long, Rhinebeck, NY;

Power of Attorney: The patent practitioners associated with Customer Number 00909

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/356,472 02/14/2002

Foreign Applications

If Required, Foreign Filing License Granted: 01/02/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/303,102**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

FIXED INCOME SECURITIES RATINGS VISUALIZATION

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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FEB 10 2011

OFFICE OF PETITIONS

In re Application of :
Francois M. DeGavey :
Pat. Number: 6,820,667 : ON PETITION
Issue Date: 11/23/2004 :
Title of Invention: :
DUAL COMPARTMENT TIRE :

This is a decision on the correspondence filed November 15, 2010, wherein petitioner avers payment of the three and one half (3½) year maintenance fee. The correspondence is properly treated as a petition to review a refusal to accept and record payment of a maintenance fee under 37 CFR 1.377.

The petition is **granted.**

Background

The patent issued November 23, 2004. The three and one-half (3½) year maintenance fee could have been paid from November 23, 2007, through May 23, 2008, or with a surcharge during the period from May 24, 2008, to November 23, 2008.

Petitioner files the present petition and provides that he made payment in November 2008 for the invention for $530.00and for $25.00. Both checks cleared petitioner's bank account. Petitioner has since been informed that the check for $530.00 was refunded back to him.

A review of Office records reveal that this Office received a check for $530.00 on October 22, 2008, and a check for $25.00 on November 6, 2008. The check for $530.00 was returned to petitioner on December 16, 2008.

The Maintenance Fee

The three and one-half (3½) year maintenance fee was $490.00 on May 23, 2008, at the time the maintenance fee was due. Thereafter, from May 24, 2008, to November 23, 2008, the maintenance fee required an additional surcharge of $65.00. The total amount due at the time petitioner submitted the two checks was $555.00.

Petitioner has demonstrated, and Office records confirm, that petitioner filed a total of $555.00 in this Office before November 23, 2008.

PTO records have been updated to reflect the timely submission of the maintenance fee.

A refund of the petition fee has been scheduled via Treasury Check.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This file is being forwarded to Files Repository.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Change of Correspondence *Patent*

CC: Frank M. Gévay
1000 CABALA BOULEVARD
HENDERSON, NV 89014

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TUCSON AZ 85718

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Monte Creasor, et al.	:	
Application No. 10/303,399	:	DECISION ON PETITION
Filed: November 25, 2002	:	TO WITHDRAW
Attorney Docket No. GLH 08-889790	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 15, 2010.

The request is **NOT APPROVED**.

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

The request cannot be approved because none of the certifications were made on the PTO/SB/83 form.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Corel Corporation**
1600 Carling Avenue
Ottawa, Ontario K1Z 8R7
Canada

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In re Patent No. 7200334
Issue Date: April 3,2007
Application No. 10303746
Filed: November 26,2002
Attorney Docket No. Q73028

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 19,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 19,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7200334	2007-04-03	10/303,746	2002-11-26	Q73028

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2011-07-19
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

MAILED

SEP 01 2010

OFFICE OF PETITIONS

In re Patent of Singer :
Patent No. 7,577,602 :
Issue Date: August 18, 2009 :
Application No. 10/304,248 :
Filing Date: November 26, 2002 :
Attorney Docket No. 02-998 :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This decision is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. 1.705(b)-(d)" filed May 20, 2010, stating the correct patent term adjustment is one thousand seven hundred sixty-nine (1769) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent issued August 18, 2009. The patent term adjustment indicated in the patent was 1442 days.

A request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) was filed October 5, 2009.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" form was filed February 10, 2010.

On March 23, 2010, the Office issued a decision in response to the October 5, 2009 request. The decision stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by one thousand seven hundred sixty-nine (1769) days.

On April 20, 2010, the Office issued a decision in response to the February 10, 2010 request. The decision indicated the Office would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by two thousand ninety-six (2096) days.

On April 27, 2010, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by one thousand seven hundred sixty-nine (1769) days.

The instant request was filed May 20, 2010. The instant request asserts the correct number of days of patent term adjustment is 1769 days.

The Office agrees the patent term adjustment is 1769 days.

As previously noted, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by 1769 days on April 27, 2010.

The Certificates of Correction Branch will be informed of the instant decision to ensure a certificate of correction indicating a patent term adjustment of 2096 days is ***not*** be issued pursuant to the decision mailed April 21, 2010, because the proper patent term adjustment is 1769 days as stated in the certificate of correction issued April 27, 2010.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Application of :
Ohmi et al. :
Application No. 10/304,869 :
Filed: November 26, 2002 :
Attorney Docket No. 8075-1051 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2011.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed via Customer Number however the request does not designate a Customer Number to be withdrawn by.

Further, the Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40(c).

The current request does not properly withdraw practitioners via Customer Number as it does not set forth all of the above certifications. Therefore, the request cannot be approved at this time. Any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed and provide all of the above listed certifications pursuant to 37 CFR 10.40(c).

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/305,065	11/27/2002	In-Kyu Park	1901.1348	6179

21171 7590 04/02/2012

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

EXAMINER	
BROOME, SAID A	
ART UNIT	**PAPER NUMBER**
2628	
MAIL DATE	**DELIVERY MODE**
04/02/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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March 30, 2012

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

In re Application of :
In-Kyu Park et al. : **DECISION ON PETITION**
Application No. 10305065 :
Filed: 11/27/2002 :
Attorney Docket No. **1901.1348** :

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 27, 2002.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings), and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to 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."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑
A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/305,070	11/27/2002	Alexander Olegovich Zhirkov	1901.1366	6215

21171 7590 05/31/2011

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

EXAMINER	
REPKO, JASON MICHAEL	
ART UNIT	PAPER NUMBER
2628	
MAIL DATE	DELIVERY MODE
05/31/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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May 29, 2011

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

In re Application of :
Alexander Olegovich Zhirkov et al. : **DECISION ON PETITION**
Application No. 10305070 :
Filed: November 27, 2002 :
Attorney Docket No. **1901.1366** :

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 27, 2002.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to 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."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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August 8, 2011

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

In re Application of	:	
Alexander Olegovich Zhirkov et al.	:	**DECISION ON PETITION**
Application No. 10305070	:	
Filed: 11/27/2002	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **1901.1366**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) July 29, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

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OFFICE OF PETITIONS

LEONARD TACHNER
A PROFESSIONAL LAW CORPORATION
SUITE 38-E
17961 SKY PARK CIRCLE
IRVINE CA 92614-6364

In re Patent No. Boguslaw Orlowski	:	
Issue Date: June 21, 2005	:	
Application No. 10/305,161	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. CWIC-20	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 3, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 22, 2009 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being referred to Files Repository.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

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P.O. Box 16146
Nicosia CY208-6
CYPRUS

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SEP 29 2011

OFFICE OF PETITIONS

In re Application of :
Anisimovich et al. : DECISION ON PETITION
Application No. 10/305,499 :
Filed: November 29, 2002 :
Atty Docket No. ABBYY-U03 :

This is a decision on the PETITION TO REVIVE UNDER 37 CFR 1.137(b) UNINTENTIONAL ABANDONMENT filed May 12, 2011.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned effective September 5, 2007 for failure to file a timely and proper reply to the final Office action mailed June 4, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A reply was filed on August 1, 2007. However, it was determined by the examiner not to place the application in condition for allowance. See Advisory Action mailed September 5, 2007. No further reply was filed or extension of time obtained. A courtesy Notice of Abandonment was mailed on March 18, 2008.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A petition filed pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes a proposed reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required. However, the instant petition does not satisfy requirement (1) above.

As stated in MPEP 711.03(c),

A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

> (A) a Notice of Appeal and appeal fee;
> (B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
> (C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or
> (D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

The amendment submitted does not place the application in condition for allowance. In view thereof, the petition must be dismissed. An Advisory Action is enclosed.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

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Paper No.

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In re Application of :
Anisimovich et al. : DECISION ON PETITION
Application No. 10/305,499 :
Filed: November 29, 2002 :
Atty Docket No. ABBYY-U03 :

This is a decision on the RENEWED PETITION TO REVIVE UNDER 37 CFR 1.137(b) filed October 27, 2011. This decision is made in light of the request for continued examination submitted October 28, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned effective September 5, 2007 for failure to file a timely and proper reply to the final Office action mailed June 4, 2007. The reply filed on August 1, 2007 was determined by the examiner not to place the application in condition for allowance. By decision mailed September 29, 2011, the initial petition under 37 C.F.R. § 1.137(b) was dismissed for failure to submit the reply required to the outstanding Office action. The proposed reply did not satisfy requirement (1) above.

On renewed petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of previously submitted arguments)(and RCE fee). All requirements of 37 CFR 1.137(b) have been met.

Technology Center AU 2626 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE (and submission) submitted on October 28, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP ASSOCIATES
SUITE 400
HOUSTON, TX 77027-9012

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FEB 29 2012
OFFICE OF PETITIONS

In re Patent No. 7,225,878
Issue Date: June 5, 2007
Application No. 10/305,524
Filed: November 26, 2002
Attorney Docket No.: META,002

ON PETITION

This is a decision in response to a petition, filed January 9, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 5, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition is timely filed under the provisions of 37 CFR 1.378(c).

The petition is not signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of John Behles appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Behles desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nonetheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office. Receipt is acknowledged of the requisite maintenance fee and surcharge.

Status has been changed to a small entity in view of applicant's assertion included with the present petition.

In view of the above, the 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MR. JOHN BEHLES
115 WEST 3RD STREET
SUITE 401
TULSA, OK 74103

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 09 2012

OFFICE OF PETITIONS

Daniel R.Engel
9817 Cudell Avenue
Cleveland OH 44102

In re Patent No. 6,755,037 :
Issued: June 29, 2004 : REQUEST FOR INFORMATION
Application No.: 10/305,611 :
Filing Date: November 27, 2002 :
Attorney Docket No. :

This is a request for information in response to the petition under 37 CFR 1.378(b), filed March 15, 2012, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed March 15, 2012. No additional fees are due.

The patent issued June 29, 2004. The 3.5 year maintenance fee could have been paid June 29, 2007, through December 29, 2007, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from December 30, 2007, to June 29, 2008 Petitioner did not do so. Accordingly, the patent expired at midnight on June 29, 2008.

Petitioner is required to address the following points:

- 37 CFR 1.378(b)(3) sets forth that a petition submitted under this portion of the Code of Federal Regulations must include a showing which is described as follows:

  A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

  Petitioner must, therefore, describe the steps that were in place to ensure that the maintenance fee was timely paid. This showing would include an explanation of who was responsible for paying tracking and paying the maintenance fee and the method this person, or entity, used for tracking the maintenance fee. Further, petitioner is required to establish how this person's delay in paying the maintenance fee was unavoidable.

- Petitioner is cautioned that Maintenance Fee Reminders are sent as a courtesy. It is well established in case law that non-receipt of a Maintenance Fee Reminder is not a cause for unavoidable delay as the term is used in 37 CFR 1.378(b). Further, patentees are charged with constructive knowledge of all applicable rules as set forth in Title 37 of the Code of Federal Regulations. Accordingly, being unaware of an applicable rule as it relates to the maintenance fee schedule and payments or petitions to reinstate the patent once expires would normally not be considered a cause of unavoidable delay.

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

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 10/07/2010

Applicant	: Eric Demers	: DECISION ON REQUEST FOR
Patent Number	: 7656416	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/306,460	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **989** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
OCT 18 2011
OFFICE OF PETITIONS

In re Patent No. 6,949,116 :
Issued: September 27, 2005 :
Application No. 10/306,481 : ON PETITION
Filed: November 27, 2002 :
Attorney Docket No. 07-2354-B :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 22, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6832153
Issue Date: December 14,2004
Application No. 10306679
Filed: November 27,2002
Attorney Docket No. 036122-007

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 6,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 6,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE TO CERTIFICATE OF CORRECTION

Paper No.: 20101122

DATE : November 22, 2010

TO SPE OF : ART UNIT 3686

SUBJECT : Request for Certificate of Correction for Appl. No.: 10306864 Patent No.: 7805321

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☑ **Denied**	State the reasons for denial below.

Comments: The name correctly appears on the patent as it appears in the declaration submitted by applicant on August 18, 2003, signed immediately thereunder by Mr. Wahlbin.

While the misspelling of applicant's name on their issued patent is regrettable, the error did not occur solely "due to Patent Office oversights," as erroneously alleged by applicant.

Since the error was, in fact, solely due to applicant's oversight in preparing their declaration, a new, corrected declaration will obviously be required, in addition to the required statement that the applicant error occurred unintentionally and without deceptive intent.

/Jerry O'Connor/ — SPE

3686 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD.
SUITE 1200
DURHAM NC 27707

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Patent Number: 7,266,122 :
Issue Date: 09/04/2007 :
Application Number: 10/306,904 : NOTICE
Filing or 371(c) Date: 11/27/2002 :
Attorney Docket Number: 1497/136 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on February 23, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas Wood
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/18/11

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10307082 Patent No.: **7693123**

CofC mailroom date: 03/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[redacted]

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

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Alexandria, VA 22313-1450
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MAILED

AUG 05 2010

OFFICE OF PETITIONS

KEVIN ORTON
3315 E. RUSSEL ROAD, A4-#257
LAS VEGAS, NV 89120

In re Patent No. 6,920,884
Issue Date: July 26, 2005
Application No. 10/307,248
Filed: November 27, 2002
Attorney Docket No. 704484.4012

ON PETITION

This is a decision on the petition under 37 CFR 1.378(b), filed December 7, 2009, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

The above-identified patent issued July 26, 2005. The 3 ½ year maintenance fee was due January 26, 2009, and could have been paid from July 26, 2008 through January 26, 2009 or, with a surcharge from January 27, 2009, through July 26, 2009. As the maintenance fee was not timely paid, this patent expired by operation of law at midnight on its fourth anniversary date: July 26, 2009.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

The Commissioner may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC 41(c)(1).

Petitioner asserts that he contracted a payment service to make his maintenance fee payments on 76 cases. However, it appears that this case was not entered or entered incorrectly into their system which caused the 3 ½ year maintenance fee not to get paid within the time period.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 USC 133 because 35 USC 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 f. 3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner has provided no evidence, which indicates the payment service was responsible for payment of the 3 ½ year maintenance fee. A statement from petitioner as to: (1) who was responsible for payment of the 3 ½ year maintenance fee; and (2) what steps were in place by the responsible party to track and pay the fee is required. A complete explanation of the system and the personnel who administered it is required, along with supporting documentation. If the payment service was responsible, then supplying the necessary showing and documents are required. If petitioner cannot show there were any steps in place, then the payment service is immaterial as it was not the cause of the expiration of the patent. Petitioner must state when and

the manner in which either petitioner or the payment service became aware of the expiration of the patent and must also enumerate the steps taken to promptly file the petition.

Petitioner has not shown, with supporting documentation, that the payment service had taken any steps to enter the instant patent into a tracking system, much less that the system, if any, by a prudent and careful person with respect to his most important business. That is, there is as of yet no adequate showing that any steps had been taken with respect to scheduling and paying the 3 ½ year maintenance fee. It is pointed out that 37 CFR 1.378(b) is a validly promulgated regulation, which requires a showing of the steps in place to pay the maintenance fee. Any renewed petition should include a showing that this patent had in fact been entered the payment service in a fee tracking system, and be accompanied by a statement by the person responsible for payment of the maintenance fee as to how that system operated. In the absence of a showing that any steps had been taken, then 37 CFR 1.378(b) precludes acceptance of the payment.

The record fails to disclose that the payment service took reasonable steps to ensure timely payment of the 3 ½ year maintenance fee. In fact, the record indicates that no steps were taken to ensure timely payment of the maintenance fee. Since no steps were taken, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee.

As the patent holder at the time of expiration, it was incumbent on petitioners to have docketed this patent for payment of the maintenance fee in a reliable system as would be employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). During the fee payment period from July 26, 2008 to July 26, 2009, petitioners allege a third party was engaged for tracking and paying the maintenance fee. However, even where another has been relied upon to pay the maintenance fees, such asserted reliance per se does not provide a petitioner with a showing of unavoidable delay within the meaning of 37 CFR § 1.378(b) and 35 USC § 41(c). Id. Rather, such reliance merely shifts the focus of the inquiry from the petitioner to whether the obligated party acted reasonably and prudently. Id. Nevertheless, a petitioner is bound by any errors that may have been committed by the obligated party. Id.

Petitioner should note that if this petition is not renewed or is renewed and not granted, then the maintenance fee and post expiration surcharge are refundable. See 37 CFR 1.378(e) and such may be obtained by written request to Mail Stop 16, Refunds Section, at the USPTO address below.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.378(c) on the basis of unintentional delay. A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

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

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

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

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

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petition Examiner
Office of Petitions

cc: Kevin Orton
2250 E. Tropicana Ave. Ste 19-264
Las Vegas, NV 89119

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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KEVIN ORTON
3315 E. RUSSEL ROAD, A4-#257
LAS VEGAS, NV 89120

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Patent No. 6,920,884 :
Issue Date: July 26, 2005 :
Application No. 10/307,248 : ON PETITION
Filed: November 27, 2002 :
Patentee(s) Kevin Orton :

This is a decision on the petition under 37 CFR 1.378(c), filed September 17, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner submitted $1940 on December 7, 2009 and $550 on September 14, 2010. The 3 ½ year maintenance fee (Small Entity) is $490 while the Surcharge after expiration is $1640. Petitioner may request a refund of the $360 overage by writing to Mail Stop 16, Refund Requests. A copy of this decision should accompany the refund request.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/30/11

TO SPE OF : ART UNIT 2472

SUBJECT : Request for Certificate of Correction for Appl. No.: 10307267 Patent No.: 7327683

CofC mailroom date: 07/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: _____

_____ *Lamonte Newsome*

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Hassan Kizou 2472

SPE Art Unit

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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of :
Gomber et al. :
Application No. 10/307,506 :
Filed: December 2, 2002 :
Attorney Docket No. 741439-4 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 29, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

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

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

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

Currently, there is an outstanding Office action mailed October 7, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
APR 07 2011
OFFICE OF PETITIONS

Office of Counsel Code OC4
Naval Surface Warfare Center
Indian Head Division,
101 Strauss Ave. Bldg. D -31
Indian Head MD 20640-5035

In re Patent No. 7,063,810	:	
Issue Date: June 20, 2006	:	
Application No. 10/307,535	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. 84,324	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 28, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 21, 2010 for failure to pay the $3^{1/2}$ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Aiache et al.	:	
Application Number: 10/307,938	:	NOTICE
Filing or 371(c) Date: December 3, 2002	:	
Attorney Docket Number: 384164-005US1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on February 3, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : **7930230**
Ser. No. **10/307971**
Inventor(s) : **WEFERS, MARCUS_**
Issued : **04/19/2011**
Title : **METHODS AND SYSTEMS FOR RISK EVALUATION**
Docket No. : **07781.0045-00**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

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

OL

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,930,230

Issue Date: April 19, 2011

Application No. 10/307,971

Filed: December 3, 2002

Attorney Docket No. 07781.0045-00

ON PETITION

This is a decision on the petition filed May 27, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction filed April 22, 2011.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE
SUITE 1800
SALT LAKE CITY UT 84111

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,651,163	: DECISION ON REQUEST FOR
JASKOT et al.	: RECONSIDERATION OF
Issue Date: January 26, 2010	: PATENT TERM ADJUSTMENT
Application No. 10/308,147	: AND
Filed: December 2, 2002	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 14225.2	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed May 19, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred seventy-five (1575) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one thousand five hundred seventy-five (1575) days** is **GRANTED**.

The Office acknowledges the payment of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred seventy-five (1575) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,651,163 B2

DATED : Jan. 26, 2010 **DRAFT**

INVENTOR(S) : Jaskot et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1516 days.

Delete the phrase "by 1516 days" and insert – by 1575 days--

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Thomas R. Vigil Law Offices
319 Bluff Court
Barrington IL 60010

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Application of :
Helmut W. Minne :
Application No. 10/308,210 : ON PETITION
Filed: December 2, 2002 :
Attorney Docket No. **VAJP-40010** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed August 19, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 20, 2010.

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

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

This application is being referred to Technology Center AU 3765 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Date Mailed : March 2, 2011
Serial No. : 10/308544
Patent No. : 7,298,311 B2
Patent Issued : Nov. 20, 2007
Inventor(s) : Hiromasa Horie, et al.
Title : CONTROLLER APPARATUS FOR CONTROLLING AN ELECTRONIC APPARATUS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent..

Respecting the alleged error noted in your request, column 16, line 42 and column 17 line 17 contain multiple"a"s and it is not clear which one should be replaced.

In view of the foregoing, your request is hereby denied.

Magdalene Talley
For Mary Francis Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
Fax 571-270-9942

Frommer Lawrence & Haug, LLP
745 Fifth Avenue
New York, NY 10151

MD/mt

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MAILED

OCT 04 2011

OFFICE OF PETITIONS

MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK VA 22947

In re Patent No. 7,141,812 :
Issued : November 28, 2006 : ON PETITION
Application No. 10/308,545 :
Filed: December 3, 2002 :
Attorney Docket No. **1021-010** :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,195,223	2007-03-27	10308602	2002-12-02	FCTL 0011 PUS

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael D. Turner/	Date (YYYY-MM-DD)	2011-06-22
Name	Michael D. Turner	Registration Number	52306

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 7195223
Issue Date: March 27,2007
Application No. 10308602
Filed: December 2,2002
Attorney Docket No. FCTL 0011 PUS

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 22,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 22,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Paper No.

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

MAILED

JAN 06 2012

OFFICE OF PETITIONS

In re Patent No. 7,121,982 :
Issue Date: October 17, 2006 :
Application No. 10/309,565 :
Inventor: Feldman : DECISION ON PETITION
Filed: December 4, 2002 : PURSUANT TO
Attorney Docket No. 6496-00101 : 37 C.F.R. § 1.182
Title: COMPUTER INTERACTIVE :
ISOMETRIC EXERCISE SYSTEM AND :
METHOD FOR OPERATIVELY :
INTERCONNECTING THE EXERCISE :
SYSTEM TO A COMPUTER SYSTEM FOR :
USE AS A PERIPHERAL :

This is a decision on the petition filed on December 20, 2011, pursuant to 37 C.F.R. § 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/309,565 matured into U.S. Patent No. 7,121,982 on October 17, 2006. The electronic records further reveal that on that same date, the Patent Grant was mailed to the address of record. However, Petitioner requests a duplicate, asserting that the Letters Patent has been lost. Receipt of the $400 petition fee is acknowledged.

The petition is **GRANTED. The Publishing Division is directed to issue a duplicate Letters Patent.** The Publishing Division (which may be reached at 571-272-4200) will be made aware of this decision in due course.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of

this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1]

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Raymond W. Mort, III
DiNovo, Price, Eli, Wagner, & Hardy LLP
7000 N. MoPac Expressway
Suite 350
Austin, Texas 78731

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of
Tetsuo Tsutsui, et al.
Application No. 10/309,843
Filed: December 4, 2002
Attorney Docket No. 0553-0342

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 19, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application :
Jeffrey Douglas Carr :
Application No. 10/310,075 : DECISION ON APPLICATION
Filed: December 4, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 13749US03 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed July 26, 2010. Applicant requests that the determination of patent term adjustment be corrected from 1728 to 2016 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment

and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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NOV 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,797,550
Issued: February 9, 2010
Application No. 10/310,075
Filed: September 14, 2010
Attorney Docket No. 13749US03

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on October 28, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 2015 days to 2016 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 4, 2005 and ends on August 11, 2009, the day before the RCE was filed, and the B delay considering the 1059 days of overlap is 1346 days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 287 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6853337	2005-02-08	10310526	2002-12-04	42390P11577C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-29
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6853337
Issue Date: February 8,2005
Application No. 10310526
Filed: December 4,2002
Attorney Docket No. 42390P11577C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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IP STRATEGIES
12 ½ WALL STREET
SUITE E
ASHEVILLE, NC 28801

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,069,448
Issue Date: June 27, 2006
Application No. 10/310,644
Filed: December 5, 2002
Attorney Docket No. STSPT46

NOTICE

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of
Nicholas More
Application No. 10/311,173
Filed: July 14, 2003
Attorney Docket No. **UDL1P003**

NOTICE

This is a notice regarding your request filed August 10, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Merck & Company Inc
126 East Lincoln Avenue
Rahway NJ 07065

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of
CURTIS et al.
Application No. 10/311,273
Filed: 12/16/2002
Attorney Docket No. T1516P

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 28, 2004, to withdraw the holding of abandonment.

On November 17, 2003, the Office mailed a non-final Office Action, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application became abandoned on February 18, 2004. A Notice of Abandonment was mailed on July 22, 2004.

In the present petition, petitioners asserted that they filed a timely response to the non-final Office Action via facsimile transmission on March 17, 2004. In support of the assertion, petitioners submitted a copy of the response and a request for an extension of time for response within the first month, containing a certificate of facsimile transmission dated March 17, 2004, and a copy of the sending unit's report confirming transmission.

Pursuant to 37 CFR 1.8:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed on March 17, 2004. Accordingly, the petition is **granted**. The holding of abandonment is hereby withdrawn. The application will be restored to pending status in view of the fact that a response was timely filed with a certificate of facsimile on March 17, 2004.

This matter is being referred to Technology Center Art Unit 1626 for a review of the reply submitted on December 28, 2004, with a certificate of facsimile dated March 17, 2004.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter I. Bernstein, Scully, Scott,
Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

MAILED
MAR 05 2012
OFFICE OF PETITIONS

In re Application of :
Geroni, et al. : DECISION ON PETITION
Application No. 10/311,995 :
Filed: December 23, 2002 :
Atty. Dkt. No.: 101615-00018 :

This decision is in response to the petition under 37 CFR 1.137(b), filed January 31, 2012.

The petition is **GRANTED**.

This application became abandoned January 30, 2011 for failure to timely submit a proper reply in response to the non-final Office action mailed October 29, 2010. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed July 5, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The above-identified application has been carefully reviewed and found in compliance with the requirements set forth above.

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 1636 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110404

DATE : January 27, 2010

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction on Patent No.: 7,358,230

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/MISOOK YU/
Supervisory Patent Examiner.Art Unit 1642

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FULBRIGHT & JAWORSKI LLP
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Patent No. 8,052,991
Fuchs, et al.
Issue Date: November 8, 2011
Application No. 10/312,077
Filed: April 14, 2003
Attorney Docket No. SONN:029US

: DECISION ON
: PATENT TERM ADJUSTMENT
: AND NOTICE OF INTENT
: TO ISSUE
: CERTIFICATE OF
: CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)", filed January 9, 2012. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand nine hundred six (1906) days to one thousand nine hundred fifty-three (1953) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand nine hundred fifty-three (1953)** days.

On November 8, 2011, the above-identified application matured into U.S. Patent No. 8,052,991. The instant request for reconsideration filed January 9, 2012 was timely filed within two months of the date the patent issued (made timely by the fact that January 8, 2012 fell on a Sunday). The Patent issued with a Patent Term Adjustment of one

thousand nine hundred six (1906) days. Patentees state that they should not have been assessed applicant delay of forty-seven (47) days for the submission of a "RESPONSE TO NOTICE OF ALLOWABILITY" after the mailing of the Notice of Allowance, because the request was the first opportunity applicants had to correct the Notice of Allowability's mistake in stating that the certified copy of the priority document had not been received.

Under the circumstances of this case, it is concluded that the filing of applicant's "RESPONSE TO NOTICE OF ALLOWABILITY" on September 23, 2011 is not a failure to engage under 37 C.F.R. §1.704(c)(10). A review of the record reveals that applicant previously submitted the priority documents, yet the Notice of Allowability indicated that none of the priority documents had been received. As this was the first opportunity for applicants to correct this error, the assessment of forty-seven (47) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **one thousand nine hundred fifty-three (1953)** days (2007 days of PTO delay, reduced by 54 days of applicant day).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one thousand nine hundred fifty-three (1953)** days subject to any disclaimers.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 8,052,991 B2

DATED : **November 8, 2011**

INVENTOR(S) : Fuchs et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1906 days.

Delete the phrase "by 1906 days" and insert – by 1953 days--

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))**
Application Number	10312077
Filing Date	14-Apr-2003
First Named Inventor	Norbert Fuchs
Attorney Docket Number	SONN:029US
Title of Invention	METHOD OF PREPARING AN UNSATURATED FATTY ACID DRY CONCENTRATE

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 8052991 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

☒ I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Correction of Assignee

Current Assignment Listed (240 char limit)
The assignment information is currently listed as:

VIS-Vitalis Linzenz-Und Handels GmbH

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

vis-vitalis Lizenz- und Handels GmbH

☒ As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).

◯ Applicant(s) status remains as OTHER THAN small entity.

◯ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

◯ Applicant(s) status remains as SMALL ENTITY.

◉ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

◯ A sole inventor

◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

◯ A joint inventor; all of whom are signing this request

◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Mark Wilson/
Name	Mark Wilson
Registration Number, if applicable	37259

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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Decision Date:	January 26, 2012
In re Patent No.	8052991
Issue Date:	08-Nov-2011
Application No	10312077
Filed date	14-Apr-2003
Attorney Docket No	SONN:029US

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed January 26, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

VIS-Vitalis Linzenz-Und Handels GmbH

Change Assignment Information to the Following:

vis-vitalis Lizenz- und Handels GmbH

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the the Patent Electronic Business Center (EBC) at 866-217-9197.

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificate of Correction Branch will be notified of this decision granting the request under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Diemer :
Application No. 10/312,079 : DECISION
Filed: 19 December, 2002 :
Attorney Docket No. 442041 :

This is a decision on the papers considered as petition filed on 30 June, 2010, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawings—at Notice, page 6) mailed on 26 March, 2010, with reply due under a non-extendable deadline on or before 26 June, 2010.

The application went abandoned by operation of law after midnight (Monday) 28 June, 2010.

It does not appear that the Office mailed a Notice of Abandonment before a petition was filed.

On 30 June, 2010, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of drawings, and made the statement of unintentional delay.

The Office mailed a Notice of Abandonment on 9 July, 2010.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7199911	2007-04-03	10312121	2003-04-07	88215-660731

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/darin j gibby/	Date (YYYY-MM-DD)	2011-05-24
Name	Darin J. Gibby	Registration Number	38464

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 7199911
Issue Date: April 3,2007
Application No. 10312121
Filed: April 7,2003
Attorney Docket No. 083234-000500US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 24,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 08/03/2010

Applicant	: Daniel Mormont	: DECISION ON REQUEST FOR
Patent Number	: 7658983	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/312,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. Box 1450
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MAILED

OCT 15 2010

OFFICE OF PETITIONS

Jack Chan Sing Chiow
11830 Pedernales Falls
Sugarland TX 77478

In re Application of :
Jack Chan Sing Chiow :
Application No. 10/312,249 : DECISION ON PETITION
Filed: 12/23/2002 :
Title: WIDE RANGE REARVIEW MIRROR :

This is a decision on the petition under 37 CFR 1.181, filed November 3, 2004, to withdraw the holding of abandonment.

This application was held abandoned for failure to respond timely to the nonfinal Office action mailed on October 6, 2003, which set a three-month shortened statutory period for reply. A Notice of Abandonment was mailed on October 19, 2004.

Petitioner avers that he filed a timely and proper reply to the nonfinal Office action on January 6, 2004.

Upon a review of the record, the Office has located the reply in the Image File Wrapper for this application. Accordingly, the response is considered timely filed on January 6, 2004.

The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a reply was filed timely.

The application is being referred to Technology Center Art Unit 2872 for a review of the reply filed on January 6, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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4-16-2010

Patent No. : 7,670,347 B2
Serial No. : 10/312,275
Inventor(s) : Gerhard Kessler, et. al.
Issued : March 2, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Column 6, lines 65-66 is a change made in an Examiner's amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the base issue fee, the requested change will not be included in the Certificate.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter should be filed and directed to decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Eva James
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1583 or 1580

Todd W. Wight
Rutan & Tucker LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

ej

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MAILED
DEC 02 2011
OFFICE OF PETITIONS

ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS NM 87059-7507

In re Patent No: 7,357,959 :
Issued: April 15, 2008 :
Application No. 10/312,601 : NOTICE
Filed: December 23, 2002 :
Attorney Docket No. 00/07177 WO US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 19, 2011.

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

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

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

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, that part of the request that is directed to the maintenance fee deficiency payment is not signed by the proper party. Gill Lennon is not authorized to sign the request. Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Additionally, the current large entity three and a half year maintenance fee is $1,130.00. Petitioner has submitted $490.00 towards the required $640.00 deficiency fee payment, thus creating a $150.00 shortage.

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

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

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

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

Additionally, the address given on the request differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: GILL LENNON
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS NM 87059-7507

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Patent No. 7,357,959 :
Issued: April 15, 2008 :
Application No. 10/312,601 : NOTICE
Filed: December 23, 2002 :
Attorney Docket No. 00/07177 WO US :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 5, 2012.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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Irving M Weiner
Weiner & Burt
P O Box 186
635 N US-23
Harrisville MI 48740

In re Application of
LYAPKO, NIKOLAI GRIGORIEVICH :
Application No.: 10/312,744 : DECISION ON
Filing or 371(c) Date: December 27, 2002 : PETITION
Attorney Docket Number: PAA-104-A :

AUG 19 2010

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on July 16, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed March 22, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on July 12, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on June17, 2010. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. As authorized, the issue fee in the amount of $755, and $300 for publication fee were charged to Form PTO-2038.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,029,548
Issued April 18, 2006
Application No. 10/312,864
Filed: June 13, 2003
Attorney Docket No. 297537US6SD

DECISION ON PETITION

This is a decision on the petition filed May 17, 2010, under 37 CFR 1.182, requesting a certificate of correction to correct the spelling of the name of the inventor.

Petitioners request that the second named inventor's last name be corrected from "Chrystelle Lagache" to "Christelle Lagahe".

Although the patent is printed based on the typed name found on the oath or declaration not the signed name, in accordance with the petitioned request and the certificate of correction, the inventor's name has been corrected as follows:

Christelle Lagahe
St. Joseph de Riviere (FR)

The petition fee in the amount of $400.00 has been charged to the credit card provided. The fee for the certificate of correction in the amount of $100.00 was previously charged on January 24, 2007 to the credit card provided, filed with the original request for a certificate of correction.

This matter is being referred to the Certificate of Corrections Branch for issuance of a certificate of correction. Questions regarding the certificate of correction should be directed to that branch at 703-305-8309, inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF SALVATORE ARRIGO AND SCOTT LEE, LLP
1050 CONNECTICUT AVE. NW
10TH FLOOR
WASHINGTON DC 20036

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of :
Charneau, et al. :
Application No. 10/313,038 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No. DI99-76-B :

This is in response to the "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182", filed March 23, 2011.

The petition is **granted**.

The terminal disclaimer filed September 28, 2006, is withdrawn. Further, the terminal disclaimer filed March 23, 2011, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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1050 CONNECTICUT AVE. NW
10TH FLOOR
WASHINGTON DC 20036

MAILED

SEP 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,968,332 :
Charneau, et al. :
Issued: June 28, 2011 :
Application No. 10/313,038 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No.: **DI99-76-B** :

This is a decision on the "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182" filed August 12, 2011.

The petition is **dismissed**[1].

Petitioner requests that the terminal disclaimer filed December 1, 2008, be replaced with the terminal disclaimer filed August 12, 2011, because the terminal disclaimer filed December 1, 2008, was signed by only one of the two named assignees of the subject application. Petitioner determined that the USPTO does not view the above-cited application and U.S. Patent No. 6,682,907 to be commonly owned. To remedy this, petitioner requests that the terminal disclaimer filed December 1, 2008, be withdrawn and replaced by a terminal disclaimer filed August 12, 2011, signed by both assignees of subject application.

It is noted that Section 1490(VII) (B) of the Manual of Patent Examining Procedure (MPEP) states, in pertinent part, that:

> The mechanisms to correct a patent — Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) — are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. As a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner — e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).
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> ...
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> Where a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection (made during prosecution of an application which has now issued as a patent), and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed (e.g., 6,444,316 written as 6,444,136), a petition under 37 CFR 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number (recorded in the issued patent), and replace it with a

[1] This decision was reached after consultation with the supervisory staff of the Office of Petitions.

> corrected terminal disclaimer having the correct patent number. In this instance, the inadvertency is clear from the record. If the transposing error resulted in an earlier patent term expiration date than provided by the corrected terminal disclaimer, a statement must be included in the corrected terminal disclaimer to retain that earlier expiration date. The absence of such a statement will result in the Office declining to exercise its discretion to grant relief.

Based on the above-cited section of the MPEP, it is not appropriate to grant the instant petition because petitioner does not assert that the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Relative to a terminal disclaimer contained in an issued patent, a petition under 37 CFR 1.182 is only appropriate when the terminal disclaimer in question was submitted to overcome a nonstatutory double patenting rejection and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Such is not the case in this instance. It is, therefore, not appropriate to grant the requested relief pursuant to 37 CFR 1.182. The petition is dismissed, accordingly.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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1050 CONNECTICUT AVE. NW
10TH FLOOR
WASHINGTON DC 20036

MAILED

DEC 0 6 2011

OFFICE OF PETITIONS

In re Patent No. 7,968,332 :
Charneau, et al. :
Issued: June 28, 2011 :
Application No. 10/313,038 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No.: **DI99-76-B** :

This is a decision on the "Renewed Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182" filed October 11, 2011.

The petition is **dismissed**.

A "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182" was filed on August 12, 2011, and dismissed by a decision mailed September 22, 2011. Following petitioner's inquiry, the undersigned suggested that petitioner file a renewed petition so that the issue might be considered further. The instant renewed petition was filed on October 11, 2011. Petitioner again requests that the terminal disclaimer filed December 1, 2008, be replaced with the terminal disclaimer filed August 12, 2011, because the terminal disclaimer filed December 1, 2008, was signed by only one of the two named assignees of the subject application. Petitioner determined that the USPTO does not view the above-cited application and U.S. Patent No. 6,682,907 to be commonly owned. To remedy this, petitioner requests that the terminal disclaimer filed December 1, 2008, be withdrawn and replaced by a terminal disclaimer filed August 12, 2011, signed by both assignees of subject application.

It is noted that Section 1490(VII) (B) of the Manual of Patent Examining Procedure (MPEP) states, in pertinent part, that:

> The mechanisms to correct a patent — Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) — are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. As a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner — e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).
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> ...
>
> Where a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection (made during prosecution of an application which has now issued as a patent), and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed (e.g., 6,444,316 written as 6,444,136), a petition under 37

> CFR 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number (recorded in the issued patent), and replace it with a corrected terminal disclaimer having the correct patent number. In this instance, the inadvertency is clear from the record. If the transposing error resulted in an earlier patent term expiration date than provided by the corrected terminal disclaimer, a statement must be included in the corrected terminal disclaimer to retain that earlier expiration date. The absence of such a statement will result in the Office declining to exercise its discretion to grant relief.

Based on the above-cited section of the MPEP and further consideration by the supervisory staff of the Office of Petitions, it is concluded that it is not appropriate to grant the instant renewed petition because petitioner does not assert that the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Relative to a terminal disclaimer contained in an issued patent, a petition under 37 CFR 1.182 is only appropriate when the terminal disclaimer in question was submitted to overcome a nonstatutory double patenting rejection and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Such is not the case in this instance. It is, therefore, not appropriate to grant the requested relief pursuant to 37 CFR 1.182. The petition is dismissed, accordingly.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF SALVATORE ARRIGO AND SCOTT LEE, LLP
1050 CONNECTICUT AVE. NW
10TH FLOOR
WASHINGTON DC 20036

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Patent No. 7,968,332 :
Charneau, et al. :
Issued: June 28, 2011 :
Application No. 10/313,038 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No.: **DI99-76-B** :

This is a **corrected decision** on the "Renewed Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182" filed October 11, 2011.

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

A "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182" was filed on August 12, 2011, and dismissed by a decision mailed September 22, 2011. Following petitioner's inquiry, the undersigned suggested that petitioner file a renewed petition so that the issue might be considered further. The instant renewed petition was filed on October 11, 2011. Petitioner requests that the terminal disclaimer filed December 1, 2008, be either withdrawn or disapproved. Petitioner determined that the USPTO does not view the above-cited application and U.S. Patent No. 6,682,907 to be commonly owned. To remedy this, petitioner requests that the terminal disclaimer filed December 1, 2008, be either withdrawn or disapproved.

It is noted that Section 1490(VII) (B) of the Manual of Patent Examining Procedure (MPEP) states, in pertinent part, that:

> The mechanisms to correct a patent — Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) — are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. As a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner — e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).
>
> ...
>
> Where a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection (made during prosecution of an application which has now issued as a patent), and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed (e.g., 6,444,316 written as 6,444,136), a petition under 37 CFR 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number (recorded in the issued patent), and replace it with a

> corrected terminal disclaimer having the correct patent number. In this instance, the inadvertency is clear from the record. If the transposing error resulted in an earlier patent term expiration date than provided by the corrected terminal disclaimer, a statement must be included in the corrected terminal disclaimer to retain that earlier expiration date. The absence of such a statement will result in the Office declining to exercise its discretion to grant relief.

Based on the above-cited section of the MPEP and further consideration by the supervisory staff of the Office of Petitions, it is concluded that it is not appropriate to withdraw the terminal disclaimer filed December 1, 2008, as petitioner does not assert that the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Relative to a terminal disclaimer contained in an issued patent, a petition under 37 CFR 1.182 is only appropriate when the terminal disclaimer in question was submitted to overcome a nonstatutory double patenting rejection and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Such is not the case in this instance. It is, therefore, not appropriate to withdraw the terminal disclaimer.

Notwithstanding, it is appropriate to disapprove the terminal disclaimer filed December 1, 2008, as the terminal disclaimer is improper because it is signed by only one of two assignees. Such is now noted in the record. The correct terminal disclaimer over U.S. Patent No. 6,682,907 was filed March 23, 2011, and approved. The petition under 37 CFR 1.182 is, therefore, granted to the extent that the terminal disclaimer filed December 1, 2008, is noted as being disapproved.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,188,774 :
Issued: March 13, 2007 :
Application No. 10/313,185 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No. 06179.00002 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 14, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6848700	2005-02-01	10313294	2002-12-06	1989.0006

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Richard W. Hanes/	Date (YYYY-MM-DD)	2010-11-12
Name	Richard W. Hanes	Registration Number	19530

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6848700
Issue Date: February 1,2005
Application No. 10313294
Filed: December 6,2002
Attorney Docket No. FRIT/007

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/313,867	12/06/2002	Guillaume Belrose	30015918-2	9268

22879 7590 03/01/2011

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER	
PITARO, RYAN F	

ART UNIT	PAPER NUMBER
2174	

NOTIFICATION DATE	DELIVERY MODE
03/01/2011	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte GUILLAUME BELROSE

Application 10/313,867
Technology Center 2100

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based On Failure To Receive PTO Communication," filed February 7, 2011 ("Petition"). The Petition seeks withdrawal of the holding of abandonment. Petition, p. 1. The Petition will be treated as a petition to the Chief Administrative Patent Judge under 37 C.F.R. §§ 1.181(a) or 41.3 (withdraw holding of abandonment). *See* 75 Fed. Reg. 15,690 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On June 18, 2007 Appellant filed an Appeal Brief.

2. On January 13, 2009 the Board entered an "Order Returning Undocketed Appeal to Examiner" (Order). The Order noted deficiencies in the Claims Appendix and instructed the Examiner to notify Appellant of such deficiencies. Order, p. 2.

3. On January 13, 2009 an electronic notification of the order was sent to Appellant.

4. On January 26, 2009 a Patent Appeal Specialist entered a Notification of Non-Compliant Appeal Brief. The notification was based on the Board's Order of January 13, 2009 and granted Appellant a period of one month within which to file a corrected brief, i.e., until February 26, 2009.

5. Having received no response to the Notification of Non-Compliant Appeal Brief, the Examiner entered a Notice of Abandonment on December 16, 2010.

6. On February 7, 2011 Appellant filed the present Petition and with exhibits including a Declaration from Ms. Peggy T. Oyama (Declaration) and "a true copy of the Hewlett-Packard Legal Department mail log (the master docket sheet) for a three-month period showing all documents for Hewlett-Packard Company docketed from January 26, 2009 to April 26, 2009." Declaration, p. 2.

7. Appellant also included a corrected copy of the Claims Appendix with the Petition on February 7, 2011.

8. Appellant's counsel states that the Notification of Non-Compliant Appeal Brief was not received by Hewlett-Packard Company. Petition, pp. 1-2.

9. A review of the corrected copy of the Claims Appendix filed on February 7, 2011 indicates that it is compliance with 37 C.F.R. § 41.37.

RELEVANT AUTHORITY

37 C.F.R. § 1.181(a) provides that:

> a) Petition may be taken to the Director:
> (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
> (3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

37 C.F.R. § 41.3 provides that:

> (b) *Scope*. This section covers petitions on matters pending before the Board (§§ 41.35, 41.64, 41.103, and 41.205); otherwise, see §§ 1.181 to 1.183 of this title.

In *Barbacid v. Brown*, 223 F. Appx. 972, 973 (Fed. Cir. 2007), the Federal Circuit held:

> [T]he duty to monitor the status of the case falls on [the party to the case]. *See, e.g., Witty v. Dukakis*, 3 F.3d 517, 521 (1st Cir. 1993) (. . . "parties to an ongoing case have an independent obligation to monitor all developments in the case").

DISCUSSION

The application became abandoned on February 27, 2009 as a result of Appellants' failure to timely respond to the Notification of Non-Compliant Appeal Brief.

The first requirement for obtaining withdrawal of the holding of abandonment under 37 C.F.R. §§ 1.181(a) and/or 41.3, is that Appellants must present evidence that the Notification of Non-Compliant Appeal Brief was not received. *See, e.g.*, MPEP § 711.03(c)(I)(A) (applicable evidence

described). Appellant has provided a declaration from Ms. Peggy T. Oyama, "a Patent Paralegal for the Hewlett-Packard Company Corporate Legal Department" since July 24, 2000. Declaration, p. 1. In the Declaration, Ms. Oyama explains the corporation's "procedure for handling formal papers received from the Patent and Trademark Office." *Id.* The declaration refers to "a true copy of the Hewlett-Packard Legal Department mail log (the master docket sheet) for a three-month period showing all documents for Hewlett-Packard Company docketed from January 26, 2009 to April 26, 2009" to show non-receipt of the Notification of Non-Compliant Appeal Brief entered January 26, 2009. Declaration, p. 2. Appellant's statement of no-receipt and the accompanying evidence are sufficient to establish non-receipt of the Notification of Non-Compliant Appeal Brief. There are no facts known by the Office that would cause the Office to question the non-receipt of the Notification of Non-Compliant Appeal Brief entered January 26, 2009 in view of this evidence.

Counsel is cautioned to check the electronic file in the future.

In view of the foregoing, the Petition to Revive is GRANTED and the application will be returned to the Examiner for preparation of an Examiner's Answer.

James T. Moore
Acting Chief Administrative Patent Judge

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	10313970
Filing Date	05-Dec-2002
First Named Inventor	Bruce Stuckman
Art Unit	2481
Examiner Name	TAT CHIO
Attorney Docket Number	8285-561 (T00462)
Title	DSL VIDEO SERVICE WITH MEMORY MANAGER

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required ○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ○ Drawing corrections and/ or other deficiencies are attached. ☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ○ A sole inventor ○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors. ○ A joint inventor; all of whom are signing this e-petition. ○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Michael Roebuck/
Name	Michael Roebuck
Registration Number	35662

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 22,2011

In re Application of :

Bruce Stuckman

Application No : 10313970

Filed : 05-Dec-2002

Attorney Docket No : 8285-561 (T00462)

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed November 22,2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	10313970
Filing Date	05-Dec-2002
First Named Inventor	Bruce Stuckman
Art Unit	2481
Examiner Name	TAT CHIO
Attorney Docket Number	8285-561 (T00462)
Title	DSL VIDEO SERVICE WITH MEMORY MANAGER

OPAP IAP25 NOV 22 2011 PATENT & TRADEMARK OFFICE

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

11/23/2011 INTEFSW 00000509 10313970
01 FC:1453 1860.00 OP

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Michael Roebuck/
Name	Michael Roebuck
Registration Number	35662

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DEC 14 2011

OFFICE OF PETITIONS

In re Application of :
Bruce E. Stuckman :
Application No. 10/313,970 : ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 8285-561 (T00462) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2011, to revive the above-identified application. This is also a decision on the request for refund filed November 29, 2011.

The petition is **DISMISSED as MOOT**.

The request for refund is Granted.

The petition is dismissed as moot because a petition under the unintentional provisions of 37 CFR 1.137(b), was filed and granted electronically by EFS on November 22, 2011. The petition fee was also paid again at that time.

As to the Request for Refund:

Since the petition filed on November 17, 2011, is being dismissed as Moot, the petition fee ($1,860.00) paid on November 17, 2011, is being credited to petitioner's credit card account as requested on November 29, 2011

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

The application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No.

AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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AUG 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,615,379	:	DECISION ON REQUEST
Raitano et al.	:	FOR
Issue Date: November 10, 2009	:	RECONSIDERATION OF
Application No. 10/313,972	:	PATENT TERM ADJUSTMENT
Filed: December 6, 2002	:	and
Atty Docket No. 511582006320	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 5, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ninety-eight (998) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ninety-eight(998) days is **GRANTED**.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred ninety-eight (998)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,615,379 B2

DATED : **November 10, 2009** **DRAFT**

INVENTOR(S) : Raitano et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby
corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 437 days

Delete the phrase "by 437 days" and insert – by 998 days--

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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Jeyhan Karaoguz :
Application No. 10/314,306 : ON APPLICATION FOR
Filed: December 9, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. **20223US02** :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR 1.705)" filed July 27, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is one thousand, sixty (1060) days, not one thousand, twenty-nine (1029) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on January 9, 2006.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 3400
CHICAGO IL 60661

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APR 07 2011

OFFICE OF PETITIONS

In re Patent No.7,818,015 :
Karaoguz, et al. :
Issue Date : October 19, 2010 :
Application No. 10/314,306 :
Filed: December 9, 2002 :
Attorney Docket No. **20223US02** :

DECISION FOR REQUEST
FOR RECONSIDERATION
OF PATENT TERM
ADJUSTMENT

This is a decision on the "Application for Reconsideration of the Patent Term Adjustment under 35 U.S.C. § 154(b) Indicated in the Patent (37 CFR 1.705(d))," filed December 20, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from one thousand, fifty-nine (1,059) days to one thousand, sixty (1,060) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentees are given ONE (1) MONTH from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On October 19, 2010, the above-identified application matured into U.S. Patent No. 7,818,015 with a revised patent term of 1,059 days. The instant petition under 37 CFR 1.705(d) was filed within two months of the issuance of the patent and is timely.

Patentees' assert that the Office's calculation of the "B" delay period is inaccurate because the "B" delay period was calculated beginning the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on the day before the date the Request for Continued Examination was filed. Patentees maintain that said period should end on the day the Request for Continued Examination was filed.

It is noted that 35 U.S.C. 154 authorizes the Director to establish the procedures for the application for and the determination of patent term adjustments. Those procedures include the calculation of the period of adjustment as set forth in 37 CFR 1.702(b) and 37 CFR 1.703(b). 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term

adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

As such, it is evident that 35 U.S.C. 154 gives the USPTO rulemaking authority relative to the determination of patent term adjustments and the authority to implement and interpret said rules. Accordingly, 37 CFR 1.702(b) and 37 CFR 1.703(b)(1) is interpreted to mean that the period of adjustment to the patent term for failure to issue the patent within three years of after the date the application was filed under 35 U.S.C. 111(a) begins on the day after the date that is three years after the date on the which the application was filed under 35 U.S.C. 111(a), and ends on the day before the date the Request for Continued Examination was filed.

Accordingly, as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 10, 2005, and ends on January 8, 2006, the day before the RCE was filed, and is 30 days.

In view thereof, no change to the revised patent term adjustment is warranted.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Sam Shiaw-Shiang Jiang :
Application No. 10/314,539 : NOTICE
Patent No. 7,436,795 :
Filed: December 09, 2002 :
Attorney Docket No. **ASTP0086USA**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SANG N. DANG**
KLIEN, O'NEIKK & SINGH, LLP
18200 VON KARMAN AVENUE, SUITE 725
IRVINE CA 92612

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P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Del Prado Pavon et al. :
Application No. 10/314,623 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. US020144US :

This is a decision on the petition, filed February 17, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned due to the decision by the Board of Patent Appeals and Interference (BPAI) rendered on 11/4/2009 and because the period for seeking court review of the decision expired and there are no allowed claims. A Notice of Abandonment was mailed February 1, 2010.

In the BPAI decision of November 4, 2009, the examiner was affirmed-in-part. The decision specifically states, "The decision of the Examiner rejecting claims 1, 6 to 8, 13 to 15, 20, and 21 is affirmed. The decision of the Examiner rejecting claims 2 to 5, 9 to 12, and 16 to 19 is reversed."

Petitioner states that the examiner of record "failed to take an appropriate action in this case," pursuant to 37 CFR 1.197(b)(1)(b)(ii) and MPEP 1214.06(I).

MPEP 1214.06(I) states,

> If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, after expiration of the period for further appeal, the examiner should proceed in one of two ways:
>
> (1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or

(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the application is abandoned since no claims stand allowed.

As pointed by out by the petitioner, the examiner of record should have done one of the two above-listed options, rather than issuing a Notice of Abandonment.

Accordingly, the instant petition is granted and the holding of abandonment is hereby withdrawn.

This application is being referred to Technology Center AU 2476 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA TN 37402-2289

In re Patent No. 6,801,021	:	
Issue Date: October 5, 2004	:	
Application No. 10/314,883	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 23130-0001	:	

This is a decision on the petition filed September 21, 2010, which will be treated as a petition under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 6, 2008, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Paper No.

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON APPLICATION
Karaoguz et al.	:	FOR
Application No. 10/315,187	:	PATENT TERM ADJUSTMENT
Filed: December 10, 2002	:	
Attorney Docket No. 20219US02	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b) filed November 4, 2011.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED**.

On August 5, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 365 days. On November 4, 2011, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants request that (considering any overlap) both the 278 days from the date of filing of a first notice of appeal until the date of issuance of an Office action under 35 U.S.C. 132 and the 153 days from the date of filing of a second notice of appeal until the date of issuance of an Office action under 35 U.S.C. 132 as delay under 37 CFR 1.702(e)(delay for successful appellate review).

[1] The Issue Fee payment was also received on November 4, 2011.

Applicants' bases for correction of the patent term adjustment have been considered and not found persuasive. The time period from the filing of a notice of appeal to the issuance of an Office action under 35 U.S.C. 132 is not considered a period of successful appellate review under the Office's current interpretation of the statute. The Office does not treat the filing of a notice of appeal followed by the issuance of an action under 35 U.S.C. 132 as successful appellate review within the meaning of 37 CFR 1.702(e).

However, it is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be given under 37 CFR 1.136(a).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Doug Hole
Pulmonox Technologies Corporation
10835-120 Street Edmonton
Alberta, Canada, T5H 3P9

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AUG 19 2010
OFFICE OF PETITIONS

In re Patent No. 6,920,876 :
Issue Date: July 26, 2005 :
Application No. 10/315,539 : ON PETITION
Filed: December 10, 2002 :
Attorney Docket No. 24647-81801 (0-02-166) :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed July 16, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 27, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

The patent file is being forwarded to Files Repository.

Terri Johnson
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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MCDERMOTT, WILL & EMERY, LLP
MELODY WIRZ
SUITE 3900
1000 LOUISIANA STREET
HOUSTON, TX 77002

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AUG 27 2010

OFFICE OF PETITIONS

In re Application of

L. MCD. Schetky, et al.
Application No. 10/315,569
Filed: December 10, 2002
Attorney Docket No. ARSI-056CON3

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HRL LABORATORIES, LLC
3011 MALIBU CANYON RD.
MALIBU, CA 90265

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OFFICE OF PETITIONS

In re Application of
Wesley Chuang, et al.
Application No. 10/315,912
Filed: December 9, 2002
Attorney Docket No. 000506

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 28, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 28, 2010. Accordingly, the date of abandonment of this application is September 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/315,912	12/09/2002	Wesley Chuang	000506

CONFIRMATION NO. 2319

65050
HRL LABORATORIES, LLC
3011 MALIBU CANYON RD.
MALIBU, CA 90265

POA ACCEPTANCE LETTER

Date Mailed: 12/03/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD.
SUITE 1200
DURHAM NC 27707

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Wirth, Jarryl	:	
Application No. 10/316,445	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. 1424/27	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2175 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAILED
MAY 09 2011
OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

In re Patent No. 7,116,323 :
Issue Date: October 3, 2006 :
Application No. 10/316,672 : ON PETITION
Filed: December 10, 2002 :
Attorney Docket No. 76882-8005.US01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed April 18, 2011.

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

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

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

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

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6897373
Issue Date: May 24,2005
Application No. 10316706
Filed: December 11,2002
Attorney Docket No. 42390P11582C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 1,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6897373	2005-05-24	10316706	2002-12-11	42390P11582C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-29
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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SEP 13 2010

OFFICE OF PETITIONS

BUCHANAN INGERSOLL & ROONEY, PC
1737 King Street, Suite 500
ALEXANDRIA VA 22314

In re Patent of Schlegel	:	DECISION ON REQUEST
Patent No. 7,689,914	:	FOR RECONSIDERATION OF
Issue Date: March 30, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/316,903	:	and
Filed: December 12, 2002	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. P2866-893	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 28, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand two hundred and seven (2207) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two thousand two hundred and seven (2207) days is **granted**.

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). The maximum B delay period begins on December 13, 2005, which is one day after three years after the filing of the application on December 12, 2002, and ends on March 30, 2010, when the patent issued. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 960 day period beginning on January 3, 2007, the date the Notice of Appeal was filed, and ending on August 19, 2009, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner. An 85 day overlapping period of delay beginning on December 13, 2005 and ending on March 7, 2006 already accounted for under 35 U.S.C. § 154(b)(1)(A) ("A Delay") must be subtracted from the B delay period. The adjusted B delay period is 524 days (1569 - 960 - 31).

Although the 960 days consumed by appellate review is not part of the period of B delay, the 960 days does constitute delay under 35 U.S.C. 154(b)(1)(C) ("C delay"). In other words, the successful appellate period of 960 days is counted against the Office as a separate adjustment pursuant to 37 CFR 1.702(e) as C delay.

Accordingly, the correct patent term adjustment is 2207 days (754 days A delay + 524 days B delay + 960 C delay minus 31 days Applicant Delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by two thousand two hundred seven (2207)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,689,914 B2

DATED : **March 30, 2009** **DRAFT**

INVENTOR(S) : Schlegel

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 2074 days

Delete the phrase "by 2074 days" and insert – by 2207 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

In re Patent No. 7,091,030 :
Issue Date: August 15, 2006 :
Application No. 10/317,171 : ON PETITION
Filed: December 12, 2002 :
Patentee(s) Kerrie Setiawan et al :

This is a decision on the petition under 37 CFR 1.378(c), filed October 7, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Christopher Martin
Apt. LE2
400 Argyle Road
Brooklyn, NY 11218

MAILED
APR 16 2012
OFFICE OF PETITIONS

In re Patent of Christopher Martin :
Patent No. 6,827,364 :
Issue Date: December 7, 2004 : Decision on Petition
Application No. 10/317,374 :
Filing Date: December 11, 2012 :
Attorney Docket No. NNY1820 :

This is a decision on the petition under 37 C.F.R. § 1.378(b) filed February 22, 2012, to reinstate the above-identified patent.

The petition is **DISMISSED**.

Facts

The patent issued December 7, 2004.

The 3.5 year maintenance fee could have been paid from December 7, 2007, to June 9, 2008, or with a surcharge from June 10, 2008, to December 8, 2008. The fee was not timely paid. Accordingly, the patent expired on December 8, 2008.

Petitioner states he attempted to save funds to pay for any necessary maintenance fees when he discovered maintenance fees are required for patents on an unidentified date.

Petitioner states his ability to pay the 3.5 year maintenance fee was impacted by his father's death, the impact his father's death had on his mother, the loss of his job, and a period of unemployment of almost two and a half years.

Law

A grantable petition under 37 C.F.R. § 1.378(b) must be accompanied by a showing to the satisfaction of the Director that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable.

In order for a party to show unavoidable delay, the party must show "reasonable care was taken to ensure that the maintenance fee would be promptly paid."[1] The level of "reasonable care" required to be shown is the same as the level of "care or diligence ... generally used and observed by prudent and careful men in relation to their most important business."[2] When determining if a period of delay has been shown to have been unavoidable, the Office will take "all the facts and circumstances into account" and will decide each petition "on a case-by-case basis."[3]

35 U.S.C. § 41(c)(1) states, with emphasis added, "The Director may accept the payment of any maintenance fee . . . after the six month grace period if the delay is *shown to the satisfaction of the Director* to have been unavoidable." Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

The Office and Congress have recognized the unavoidable standard can be very difficult to meet. During 1992, Congress considered the difficulty involved in reinstating a patent under the unavoidable. Congressional representatives described the unavoidable standard as inflexible, extremely hard to meet, too stringent and harsh.[4] Congress did NOT take steps to make the unavoidable standard more flexible, easier to meet, less stringent, or less harsh. Instead, Congress determined that it would allow patent owners the ability to reinstate a patent under an "unintentional" standard as long as the petition was filed within 24 months of the expiration of the patent. Congress chose to continue requiring proof of unavoidable delay for petitions filed after the 24 month time period.

Application of the Law to the Facts

Although the death of petitioner's father is certainly regrettable, petitioner has failed to establish his father's death impacted his ability to send a payment to the Office for the maintenance fee or to file a petition to reinstate the patent. Therefore, the Office must determine if the record includes a showing of unavoidable delay based on petitioner's financial situation.

---

[1] 37 C.F.R. § 1.378(b).

[2] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

[3] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982).

[4] "[The unavoidable] standard has been found to be extremely hard to meet. Some patent owners have lost their patent rights due to this inflexible standard." 138 CONG. REC. S16613, 16614 (September 30, 1992) (Rep. DeConcini) (emphasis added). "The unavoidable standard has proved to be too stringent in many cases." 138 CONG. REC. H1115 (October 3, 1992) (Rep. Hughes) (emphasis added). "The unavoidable standard is 'too stringent. Some patent owners have lost their patent rights due to circumstances that do not warrant this harsh result, but that could not be considered 'unavoidable' under current law.'" 138 CONG. REC. E1688 (June 4, 1992) (extension of remarks of Rep. McCollum) (emphasis added).

In order to establish unavoidable delay under 37 C.F.R. § 1.378(b) based on one's financial situation, a petitioner must establish:

1. Petitioner was unable to pay the fee prior to the due date for the fee;
2. Petitioner was unable to afford the fees required to reinstate the patent prior to the date the petition was filed; *and*
3. The fee would have been paid timely but for the petitioner's inability to pay the fee.

Petitioner's Ability to Pay the Fee

The financial information petitioner has provided consists mainly of an assertion petitioner was unemployed for almost two and a half years. However, the exact date petitioner lost his job is unknown and the petition was not filed until more than three years after the expiration of the patent. Therefore, the current showing of record is insufficient to establish petitioner was unable to afford to timely pay the fee or to file a petition to reinstate the patent on an earlier date.

If petitioner files a request for reconsideration, petitioner should note a showing of unavoidable delay based on petitioner's financial situation must include a complete showing of petitioner's financial condition during the entire period between November 1, 2008, and February 22, 2012, including income, expenses, assets, credit and obligations, which made the delay in payment of the maintenance fee unavoidable. Petitioner should provide a month by month analysis of income, expenses, and assets to establish the fact that, at no time, could petitioner have afforded to pay the maintenance fee. Petitioner must prove that petitioner treated the payment of the maintenance fee as petitioner's most important business. If petitioner did not pay the maintenance fee prior to filing the instant petition due to a conclusion that the invention lacked sufficient commercial value to justify the expense, then the delay is neither unavoidable nor unintentional. Petitioner should provide copies of any documents or records that would confirm the financial difficulty.

Petitioner is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Petitioner's Knowledge of the Need to Pay the Fee

Petitioner has not shown his financial situation was a "but for" cause of his failure to timely pay the fee or file a petition on an earlier date. Specifically, petitioner has not shown he was aware of the need to pay the fee during the period the fee was due and would have timely paid the fee if he has been able to afford payment of the fee.

37 C.F.R. § 1.378(b) requires a party to "enumerate the steps taken to ensure timely payment of the maintenance fee." In other words, a failure by a party to take, or obligate another party to take, steps to ensure timely payment of maintenance fees, will "preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b)(3)."[5] "In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, [a] patentee's lack of knowledge of the need to pay the maintenance fee ... [will] not constitute unavoidable delay."[6]

If a request for reconsideration is filed, the request should discuss all steps taken by petitioner to ensure the fee would be timely paid and the extent to which such steps resulted in petitioner being aware of the need to pay during the period the fee could have been paid.

The Address of Record

The address on the petition is different than the address of record. This decision is being sent to the address on the petition. However, any future correspondence will be sent to the address or record unless a request for the Office to change the address of record is filed.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision and include a non-refundable petition fee of $400. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.378(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

After a decision on the petition for reconsideration is issued, no further reconsideration or review of the matter will be undertaken by the Director. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable. Therefore, if a request

[5] Manual of Patent Examining Procedure ("MPEP") § 2590 (8th ed., Rev. 8, July 2010).

[6] *Id.* (citations omitted).

for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Since the petition is dismissed, petitioner may request a refund of the maintenance fee and surcharge. Petitioner is reminded that if a request for reconsideration is later filed along with the $400 fee, the $400 will not be refunded. A request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[7] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachment: Form PTO/SB/123 ("Change of Correspondence Address")

[7] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-18-06

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/317667 Patent No.: 6929637

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Please check Ref.

E Young
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: NONE PROVIDED -

MANUEL MENDEZ
Primary Patent Ex -
AU 3763

_____ _____
SPE Art Unit

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SEP 21 2010

OFFICE OF PETITIONS

In re Application of :
Paul Shala Henry, et al. :
Application No. 10/317,694 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. 2001-0538 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 10, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 11, 2009. The Notice of Abandonment was mailed February 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2437 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **SCOTT C. HATFIELD**
4140 PARKLAKE AVENUE
SUITE 600
RALEIGH, NC 27612

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Patrick J. Halloran
Aventis Pasteur
Intelectual Property - Knerr Building
One Discovery Drive
Swiftwater PA 18370

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MAR 21 2011

OFFICE OF PETITIONS

In re Application of :
Cox, et al. :
Application No. 10/317,821 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. API-01-17-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2011, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned March 22, 2010 for failure to timely submit a proper reply to the final Office action mailed December 22, 2009. No petition for extension of time for reply was filed. Notice of Abandonment was mailed July 19, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1644 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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JUN 15 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,627,535 :
Issue Date: December 1, 2009 :
Application No. 10/318,237 : DECISION ON PETITION
Filed: December 13,2002 :
Inventor: Gary B. Brockman et al :

This is a decision on the Petition to Correct Assignment Records, filed December 23, 2010, which is being treated as a petition under 37 CFR 1.182 to invalidate an assignment previously recorded against the above-identified application.

The petition is **dismissed**. This is not a final agency action.

Petitioner indicates an assignment recorded on September 13, 2003 was erroneously filed in the above identified application by a third party and requests this assignment record be expunged from the file.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through §323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

In regard to B, petitioner has not sufficiently explained how the removal of a document in its entirety will not affect the assignment records. The removal of a document in its entirety will affect the assignment records. The integrity of the records is recognized as separate from the chain of title, and the USPTO endeavors to maintain a complete history of claimed interests in a given property to permit, among other things, the review of matters like chain of title by a competent authority.

Moreover, petitioner seeks an extraordinary remedy, properly addressed under 37 CFR 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP §314). As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

It is noted that the assignment data currently shows that the above identified application was reassigned by applicants on November 22, 2010, subsequent to the alleged improper assignment, so that current assignment records show the proper assignee.

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR 3.11. However, the recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

In addition, petitioner filed a petition fee of $130 with this petition. A petition to expunge assignment documents is properly addressed under 37 CFR 1.182 and a fee of $400.00 is required. An additional $270 has been charged to petitioner's deposit account.

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

David Bucci
Petitions Examiner
Office of Petitions

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

MAILED
SEP 09 2010
OFFICE OF PETITIONS

In re Application of	:	
McAllister et al.	:	
Patent Number: 7,504,258	:	DECISION ON REQUEST
Issue Date: 03/17/2009	:	FOR RECONSIDERATION OF
Application No. 10/318285	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/11/2002	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
11282-0003001	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2010, requesting consideration of the petition filed May 18, 2009, under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred five (1505) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred five (1505) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred five (1505) days**.

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

/DW/

Derek Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,258 B2

DATED : **March 17, 2009**

INVENTOR(S) : McAllister et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 992 days.

Delete the phrase "by 992 days" and insert – by 1505 days--

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Young D. Kim
1008 Gelston Cir
McLean VA 22102

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SEP 01 2010

OFFICE OF PETITIONS

In re Patent No. 6,965,798	:	
Issue Date: 11/15/2005	:	
Application No. 10/318,298	:	DECISION ON PETITION
Filed: 12/13/2002	:	
Attorney Docket No. 059837-0109	:	

This is a decision on the petition under 37 CFR 1.378(c) filed February 24, 2010, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued November 15, 2005. The grace period for paying the maintenance fee expired on November 16, 2009. This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/318,437	12/13/2002	Joseph C. Walsh	R029 1730.1	9145

26158 7590 03/11/2011

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

EXAMINER	
HARMON, CHRISTOPHER R	
ART UNIT	PAPER NUMBER
3721	

MAIL DATE	DELIVERY MODE
03/11/2011	PAPER

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

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

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

In re Application of:
WALSH, JOSEPH C. et al
Serial No. 10/318,437
Filed: Dec. 13, 2002
Docket: R029 1730.1
Title: PACKAGES, BLANKS FOR MAKING PACKAGES AND ASSOCIATED METHODS AND APPARATUS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the request filed November 9, 2010 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed September 9, 2010.

The petition is **Granted.**

After a careful review of the files, it is decided to withdraw the finality of the last Office action mailed on January 5, 2011. The requested relief is granted. As such, the Office action mailed on January 5, 2011 will be designated as non-final Office action. The period to respond to the Office action of January 5, 2011 remains unchanged. Since the finality is being withdrawn, any amendment responding to the Office action of January 5, 2011 will be treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the examiner via Supervisory Patent Examiner of the Art Unit awaiting the applicant's response to the last Office action of January 5, 2011. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,733,900 :
Patenaude : DECISION ON REQUEST FOR
Issue Date: June 8 2010 : RECONSIDERATION OF
Application No. 10/318,444 : PATENT TERM ADJUSTMENT
Filed: December 13, 2002 : AND NOTICE OF INTENT
Attorney Docket No. 14087US02 : TO ISSUE CERTIFICATE OF
Title: MULTI-SERVICE ETHERNET- : CORRECTION
OVER-SONET SILICON PLATFORM :

This is a decision on the petition filed on July 30, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted to one thousand seven hundred twenty-six (1,726) days. Patentee disputes the 1499 day adjustment and the 44 day reduction.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 1110 days, which is not in dispute.

Patentee contends there were 1500 days of Office delay pursuant to 35 USC § 154(b)(1)(B).

However, the period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1499 days. The period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 14, 2005 and ends on January 20, 2010, the day before the RCE was filed, and is 1499 days. See 35 U.S.C. 154(b)(1)(B)(i).

Patentee also disputes the 44 day reduction taken pursuant to 37 CFR 1.704 (c)(10). Instead, Patentee contends that the reduction should be 9 days.

Patentee's argument has been considered and determined to be persuasive. 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

37 CFR 1.704 (c)(10) provides:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

The submission of the "Amendment After Notice of Allowance Under 37 CFR 1.312" filed on April 26, 2010 warrants a reduction of 9 days. The 9 day period is calculated beginning on April 26, 2010 and ending on May 4, 2010 the date a response to the amendment was mailed. Thus the 44 day reduction will be removed, and replaced with a 9 day reduction.

Patentees' delay total 444 days (92 + 60 + 131 + 60 + 92 + 9).

In view thereof, the patent is entitled to an overall adjustment of 1724 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand seven hundred twenty-four **(1,724)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,733,900 B2

DATED : June 8, 2010 **DRAFT**

INVENTOR(S) : Patenaude

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1689 days

Delete the phrase "by 1689 days" and insert – by 1724 days--

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Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

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APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Bryson P. Gordon et al. :
Application No. 10/318,693 : DECISION ON PETITION
Filed: December 12, 2002 : TO WITHDRAW
Attorney Docket No. NAI1P236/02.209.01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2011.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC, has been revoked by the assignee of the patent application on March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: McAfee-Wong Cabello, Lutsch Rutherford
& Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston, TX 77070

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McAfee-Wong Cabello Lutsch
Rutherford & Brucculeri, LLP
20333 Tomball Pkwy, 6th Floor
Houston TX 77070

In re Application of	:	
Gordon et al.	:	
Application No. 10/318,693	:	ON APPLICATION FOR
Filed: December 12, 2002	:	PATENT TERM ADJUSTMENT
Docket No. 02.209.01 (920-0092US)	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed November 28, 2011, requesting that the patent term adjustment (PTA) as of the time of the mailing of the Notice of Allowance be changed to 740 days. The petition will be treated under 37 C.F.R. 1.705(b).

The request for review of the patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated Office records to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **seven hundred eighty-nine (789) days**. A copy of the updated PTA screen, showing the correct determination, is enclosed.

On October 24, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 1710 days. On November 28, 2011, applicants submitted the instant petition. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated due to the Office improperly entering (1) a 932 adjustment for purported Office delay during an unsuccessful appeal period and (2) a 38 day adjustment for purported Office delay in mailing an Office action on May 25, 2011. Both adjustments appear to be made under 37 CFR 1.702(a)(2).

With respect to the 932 adjustment: There was no Office delay under 37 CFR 1.702(a)(2). The Office timely responded to the appeal brief filed on January 29, 2008 when it mailed an examiner's answer on April 17, 2008. There was no period running against the Office to justify a 932 day adjustment. Accordingly, the 932 day adjustment is being removed.

With respect to the 38 day adjustment: Applicants are correct that no adjustment is in order. On February 17, 2011, applicants filed a request for continued examination (RCE). The Office mailed a non-final Office action in response on May 25, 2011. This was within the 4 months allotted for response. Accordingly, no adjustment is warranted and the 38 day adjustment is being removed.

A review of PTA calculations for the application has revealed another error. The Office assessed a 49 day reduction for the information disclosure statement (IDS) filed on March 18, 2008. This reduction is improper. No reduction is warranted for the filing of the IDS on March 18, 2008. This reduction was incorrectly entered pursuant to 37 CFR 1.704(c)(8) for applicants having filed an IDS after filing an appeal brief. Pursuant to 37 CFR 1.704(c)(8),

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, **after a reply has been filed**, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day **after the date the initial reply was filed** and ending on the date that the supplemental reply or other such paper was filed; is a circumstance that constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application. (Emphasis added)

The filing of the IDS in this instance is not a failure to engage in reasonable efforts to conclude examination. An appeal brief filed after a notice of appeal is not considered a reply within the meaning of this section (or §1.704(b)). In turn, an IDS filed after an appeal brief is not a supplemental reply or other paper filed after a reply has been filed. The reduction of 49 days is not warranted and is removed.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **seven hundred eighty-**

nine (789) days (816 days of Office delay - 27 days of Applicant delay).

The Office acknowledges receipt of the required $200.00 fee under 37 CFR 1.18(e) is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PTA screen for Application No. 10/318,693

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10318693 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10318693

Application Filing Date	12/12/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1786
A Delays	1786	PTO Manual Adjustment	-921
B Delays	0	Applicant Delay (APPL)	76
C Delays	0	Total PTA (days)	789

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
161	12/01/2011		P028	Adjustment of PTA Calculation by PTO		921	0
155	10/24/2011		MN/=.	Mail Notice of Allowance			0
154	10/19/2011		OAR	Office Action Review			0
153	10/19/2011		OAR	Office Action Review			0
152	10/19/2011		OAR	Office Action Review			0
151	10/19/2011		OAR	Office Action Review			0
150	10/19/2011		DVER	Document Verification			0
149	10/19/2011		IREV	Issue Revision Completed			0
148	10/19/2011		N/=.	Notice of Allowance Data Verification Completed			0
147	10/19/2011		EXIE	Interview Summary - Examiner Initiated			0
146	10/19/2011		EX.R	Reasons for Allowance			0
145	10/19/2011		EX.A	Examiner's Amendment Communication			0
144	10/19/2011		CNTA	Allowability Notice			0
138	08/26/2011		FWDX	Date Forwarded to Examiner			0
141	08/24/2011		IDSC	Information Disclosure Statement considered			0
140	08/24/2011		RCAP	Reference capture on IDS			0
139	08/24/2011	08/24/2011	M844	Information Disclosure Statement (IDS) Filed			137
137	08/24/2011		A...	Response after Non-Final Action			0
136	08/24/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
135	05/25/2011		ELC_RVW	Electronic Review			0
134	05/25/2011		EML_NTF	Email Notification			0
133	05/25/2011	04/17/2011	MCTNF	Mail Non-Final Rejection	38		101
132	05/23/2011		OAR	Office Action Review			0
131	05/21/2011		CTNF	Non-Final Rejection			0
118	04/11/2011		MPTDI-1	Mail-Petition Decision - Dismissed			0
117	04/11/2011		PTDI-1	Petition Decision - Dismissed			0
116	04/01/2011		EML_NTR	Email Notification			0
115	04/01/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
114	03/31/2011		C.AD	Correspondence Address Change			0
113	03/31/2011		C.AD	Correspondence Address Change			0
112	03/31/2011		C.AD	Correspondence Address Change			0
111	02/25/2011		PET.	Petition Entered			0
109	02/19/2011		FWDX	Date Forwarded to Examiner			0
106	02/19/2011		ABN9	Disposal for a RCE / CPA / R129			0
119	02/17/2011		IDSC	Information Disclosure Statement considered			0
110	02/17/2011		EIDS.	Electronic Information Disclosure Statement			0
108	02/17/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
107	02/17/2011		RCEX	Request for Continued Examination (RCE)			0
105	02/17/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
104	02/17/2011		BRCE	Workflow - Request for RCE - Begin			0
103	12/20/2010		ELC_RVW	Electronic Review			0
102	12/17/2010		EML_NTF	Email Notification			0
101	12/17/2010	05/29/2008	MAPDA	Mail BPAI Decision on Appeal - Affirmed	932		49
100	12/15/2010		APDA	BPAI Decision - Examiner Affirmed			0
120	11/18/2010		IDSC	Information Disclosure Statement considered			0
99	11/18/2010		EIDS.	Electronic Information Disclosure Statement			0
98	11/18/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
121	02/04/2010		IDSC	Information Disclosure Statement considered			0
97	02/04/2010		M844	Information Disclosure Statement (IDS) Filed			0
96	02/04/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
122	10/02/2009		IDSC	Information Disclosure Statement considered			0
95	10/02/2009		M844	Information Disclosure Statement (IDS) Filed			0
93	10/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
143	05/19/2009		IDSC	Information Disclosure Statement considered			0
123	05/19/2009		IDSC	Information Disclosure Statement considered			0
94	05/19/2009		M844	Information Disclosure Statement (IDS) Filed			0

92	05/19/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
91	05/19/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
89	03/23/2009		EML_NTR	Email Notification			0
87	03/23/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
86	03/19/2009		APAS	Assignment of Appeal Number			0
125	03/03/2009		IDSC	Information Disclosure Statement considered			0
124	03/03/2009		IDSC	Information Disclosure Statement considered			0
90	03/03/2009		M844	Information Disclosure Statement (IDS) Filed			0
88	03/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
84	03/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
142	01/06/2009		IDSC	Information Disclosure Statement considered			0
126	01/06/2009		IDSC	Information Disclosure Statement considered			0
83	01/06/2009		M844	Information Disclosure Statement (IDS) Filed			0
82	01/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
81	01/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
79	12/10/2008		APWD	Appeal Awaiting BPAI Docketing			0
127	11/19/2008		IDSC	Information Disclosure Statement considered			0
80	11/19/2008		M844	Information Disclosure Statement (IDS) Filed			0
77	11/19/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
74	10/06/2008		DOCK	Case Docketed to Examiner in GAU			0
72	08/22/2008		MRBNE	Mail Reply Brief Noted by Examiner			0
71	08/21/2008		RBNE	Reply Brief Noted by Examiner			0
128	08/07/2008		IDSC	Information Disclosure Statement considered			0
76	08/07/2008		M844	Information Disclosure Statement (IDS) Filed			0
73	08/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
68	06/30/2008		FWDX	Date Forwarded to Examiner			0
66	06/30/2008		TCWD	Appeal ready for BPAI docketing			0
129	06/17/2008		IDSC	Information Disclosure Statement considered			0
70	06/17/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
69	06/17/2008		M844	Information Disclosure Statement (IDS) Filed			0
67	06/17/2008		APRB	Reply Brief Filed			0
64	06/17/2008		LET.	Miscellaneous Incoming Letter			0
63	05/07/2008		MM327	Mail Miscellaneous Communication to Applicant			0
62	05/06/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
59	04/23/2008		TCRD	Return of Undocketed appeal to the TC			0
58	04/23/2008		PACC	Exam. Ans. Review Complete			0
57	04/17/2008		MAPEA	Mail Examiner's Answer			0
56	04/10/2008		APEA	Examiner's Answer to Appeal Brief			0
130	03/18/2008		IDSC	Information Disclosure Statement considered			0
75	03/18/2008	01/29/2008	M844	Information Disclosure Statement (IDS) Filed		49	49
60	03/18/2008		IDSC	Information Disclosure Statement considered			0
54	03/18/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
51	02/11/2008		APBR	Appeal Brief Review Complete			0
50	02/11/2008		FWDX	Date Forwarded to Examiner			0
49	01/29/2008		AP.B	Appeal Brief Filed			0
48	01/29/2008		XT/G	Request for Extension of Time - Granted			0
61	01/17/2008		IDSC	Information Disclosure Statement considered			0
53	01/17/2008		M844	Information Disclosure Statement (IDS) Filed			0
46	01/17/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
45	10/29/2007		MAPCP	Mail Appeals conf. Proceed to BPAI			0
44	10/26/2007		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
43	08/30/2007		AP.C	Request for Pre-Appeal Conference Filed			0
42	08/30/2007		N/AP	Notice of Appeal Filed			0
41	05/30/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
40	05/27/2007		CTFR	Final Rejection			0
38	04/11/2007		IDSC	Information Disclosure Statement considered			0
37	04/11/2007		RCAP	Reference capture on IDS			0
36.7	04/11/2007	03/21/2007	M844	Information Disclosure Statement (IDS) Filed		21	34
36	04/11/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
35	03/26/2007		FWDX	Date Forwarded to Examiner			0
34	03/21/2007		A...	Response after Non-Final Action			0
39	02/01/2007		IDSC	Information Disclosure Statement considered			0
33.7	02/01/2007		M844	Information Disclosure Statement (IDS) Filed			0
33	02/01/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
32	12/21/2006		MCTNF	Mail Non-Final Rejection			0
31	12/19/2006		CTNF	Non-Final Rejection			0
29	12/12/2006		FWDX	Date Forwarded to Examiner			0
28	11/30/2006		A.NE	Amendment after Final Rejection			0
30	10/10/2006		IDSC	Information Disclosure Statement considered			0
27	10/10/2006		RCAP	Reference capture on IDS			0
26.7	10/10/2006		M844	Information Disclosure Statement (IDS) Filed			0
26	10/10/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
25	10/05/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
24	09/28/2006		CTFR	Final Rejection			0
23	08/14/2006		IDSC	Information Disclosure Statement considered			0
22	08/14/2006		RCAP	Reference capture on IDS			0
21.7	08/14/2006	08/08/2006	M844	Information Disclosure Statement (IDS) Filed		6	19
21	08/14/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
20	08/10/2006		FWDX	Date Forwarded to Examiner			0
19	08/08/2006		A...	Response after Non-Final Action			0
18	05/08/2006	02/12/2004	MCTNF	Mail Non-Final Rejection	816		0.5
17	05/04/2006		CTNF	Non-Final Rejection			0
15	11/15/2005		DOCK	Case Docketed to Examiner in GAU			0
14	06/18/2005		DOCK	Case Docketed to Examiner in GAU			0
13	03/31/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	08/28/2004		DOCK	Case Docketed to Examiner in GAU			0
11	02/17/2004		DOCK	Case Docketed to Examiner in GAU			0
10	08/11/2003		DOCK	Case Docketed to Examiner in GAU			0
8	02/03/2003		DOCK	Case Docketed to Examiner in GAU			0

16	01/27/2003	IDSC	Information Disclosure Statement considered	0
9.7	01/27/2003	M844	Information Disclosure Statement (IDS) Filed	0
9	01/27/2003	WIDS	Information Disclosure Statement (IDS) Filed	0
7	01/22/2003	OIPE	Application Dispatched from OIPE	0
6	01/21/2003	COMP	Application Is Now Complete	0
3	01/15/2003	L128	Cleared by L&R (LARS)	0
2	12/20/2002	SCAN	IFW Scan & PACR Auto Security Review	0
1	12/12/2002	IEXX	Initial Exam Team nn	0
0.5	12/12/2002	EFILE	Filing date	0

Export to: Excel

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McAfee-Wong Cabello Lutsch Rutherford &
Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston TX 77070

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Patent of Gordon et al	: DECISION ON REQUEST
Patent No. 8,122,498	: FOR RECONSIDERATION OF
Issued: February 21, 2012	: PATENT TERM ADJUSTMENT
Application No. 10/318,693	: AND
Filed: December 12, 2002	: NOTICE OF INTENT TO ISSUE
Docket No. 02.209.01 (920-0092US)	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed February 28, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred twenty-eight (1,328) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred twenty-eight (1,328) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the maximum over three year period begins on December 13, 2005 and ends on February 16, 2011, the day before the RCE was filed, and is 1892 days. Further, 1206 days are excluded as appellate period beginning on the date the Notice of Appeal was filed, August 30, 2007, and ending on December 17, 2010, the day the board of Patent Appeals and Interferences issued their decision affirming the examiner. There is an overlapping period of 0 days, not 147 days, because the potential overlapping period begins on April 3, 2009, the day after 36 months from the filing date plus the number of days excluded. thus the 14 month delay occurred prior to the potential overlapping period. As such, the patent term adjustment is 1,475, not 1,328 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**,

whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Pursuant to patentees' authorization, deposit account no. 50-1922 is being charged the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred seventy-five (1,475)** days.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,122,498 B1

DATED : **February 21, 2012** **DRAFT**

INVENTOR(S) : Gordon et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 850 days

Delete the phrase "by 850 days" and insert – by 1475 days--

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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Fallon et al.	:	
Application No. 10/318,996	:	DECISION ON PETITION
Filed: December 13, 2002	:	
Attorney Docket No. 026808-001900US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal dated December 10, 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 11, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed August 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2173 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
FALLON, Ray et al. :
Application No. 10/318,996 : DECISION ON PETITION
Filed: December 13, 2002 : TO WITHDRAW
Attorney Docket No. **026808-001900US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 2011.

The request is **APPROVED**.

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

The request was signed by David A. Hall on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **AMERICAN POWER CONVERSION CORPORATION**
C/O SHANE HUNTER
GILMAN CLARK, LLC
176 DERAL STREET, 4TH FLOOR
BOSTON, MA 02110

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

MAILED
MAR 21 2012
OFFICE OF PETITIONS

In re Application of
David J. VOSS :
Application No. 10/319,194 :
Filed: December 13, 2002 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 6,670,009 :
Issue Date: December 30, 2003 :
Attorney Docket No. MUCC-126

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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STRADLING YOCCA CARLSON &
RAUTH, IP DEPARTMENT
P.O. BOX 7680
NEWPORT BEACH CA 92660-6441

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JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Selzer et al. :
Application No. 10/319,411 : DECISION ON PETITION
Filed: December 13, 2002 :
Attorney Docket No. CIT2.PAU.05 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 7, 2004, as required by the Notice of Allowance and Fee(s) Due mailed June 7, 2004. Accordingly, the date of abandonment of this application is September 8, 2004. A Notice of Abandonment was mailed October 21, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00 and the publication fee of $300.00, (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: John Eldredge
19900 MacArthur Blvd., Suite 1150
Irvine, CA 92612

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BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT 004770
1100 13TH STREET
SUITE 1200
WASHINGTON, DC 20005-4051

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Patent of Akseli Anttila et al.	:	DECISION ON REQUEST
Patent No. 7,623,824	:	FOR RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/319,475	:	AND NOTICE OF INTENT TO
Filing Date: December 16, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 004770.00094	:	CORRECTION

This is a decision on the petition filed January 25, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by four hundred eighty-nine (489) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by four hundred eighty-nine (489) days is **GRANTED to the extent indicated herein.**

The patent issued November 24, 2009. The patent sets forth a patent term adjustment determination of 419 days.

Patentees contend the correct patent term adjustment is 489 days.

The period of delay under 37 C.F.R. § 1.703(a) ("A Delay") is 520 days and is not in dispute.

The period of delay under 37 C.F.R. § 1.704 ("Applicant Delay") is 279 days and is not in dispute.

Patentees assert the period of A Delay and the period of delay under 37 C.F.R. § 1.703(b) ("B Delay") overlap by 0 days. The Office agrees the periods of A Delay and B Delay overlap by 0 days.

The period of B Delay is in dispute.

Patentees implicitly assert the period of B Delay is 248 days.

Pursuant to 37 C.F.R. § 1.703(b)(1), the period of B Delay does not include:

> The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

The application was filed December 16, 2002. A request for continued examination ("RCE") was filed August 21, 2006.

The number of days beginning December 17, 2005, the day after the date three years after the filing date, and ending August 20, 2006, the day before the RCE was filed, is 247 days. In other words, the period of B Delay is 247 days, not 248 days.

In view of the prior discussion, the patent term adjustment is 488 days, which is the sum of 520 days of A Delay and 247 days of B Delay reduced by 279 days of Applicant Delay.

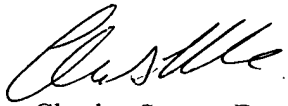
The Office will *sua sponte* issue a certificate of correction setting forth a patent term adjustment of 488 days. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

No portion of this decision should be construed as a waiver of the requirement, set forth in 35 U.S.C. § 154(b)(4), that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. § 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **four hundred eighty-eight (488)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,623,824 B2
APPLICATION NO.	:	10/319,475
DATED	:	November 24, 2009
INVENTOR(S)	:	Akseli Anttila et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 419 days.

Delete the phrase "by 419 days" and insert -- by 488 days--

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VICTOR C. HAHN
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APT. B7
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OFFICE OF PETITIONS

In re Patent No. 7,584,270 :
Issued: September 1, 2009 :
Application No. 10/319,596 : ON PETITION
Filed: December 16, 2002 :
Title of Invention: **LOG ON PERSONAL COMPUTER**

This is a decision on the request for reconsideration of determination of Patent Term Adjustment filed November 6, 2009 (certificate of mail dated November 2, 2009). Applicant requests that the determination of patent term adjustment be corrected from 301 days.

The application for patent term adjustment-post grant is **DISMISSED.**

On September 1, 2009, the above-identified application matured into U.S. Patent No. 7,584,270 with a revised patent term adjustment of 301 days. The instant application for patent term adjustment (with required fee), asserts that after the issuance of the patent, additional delays were recorded that revised the Patent Term Adjustment. Pursuant to 37 C.F.R. § 1.704(c)(10), a period of reduction totaling 214 days was entered for applicant filing papers after the mailing of the notice of allowance. Applicants argues that the amendments filed after allowance "were necessary to put the application in better or good standing, to better represent and/or describe and protect the subject matter of the concept...." and disputes the reduction of 54, 33, 15, 41, 54 and 12 days of applicant delay.

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
> or
> (ii) Four months;

The reduction has been considered and a reduction is found to be warranted. It is undisputed that amendments under 37 CFR 1.312 were filed, November 4, 2008, December 31, 2008, February 2, 2009, February 17, 2009, March 30, 2009 and July 16, 2009 after the mailing of the Notice of Allowance. This was properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

An amendment under 37 CFR 1.312 is clearly stated as a failure to engage. It is undisputed that such an amendment was filed. The fact that applicant believes the amendments were "necessary" does not negate the fact that applicant by definition both failed to engage in reasonable efforts to conclude examination and interfered with the patent issuance process by filing the amendments.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/07/11

TO SPE OF : ART UNIT 2471

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/319,596 Patent No.: 7584270

CofC mailroom date: 09/21/09

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 2/7/11 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/4/10 Paper No.: —

TO SPE OF : ART UNIT 2474

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/320170 Patent No.: 7742410 B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Kerri M Rose/ 08/19/2010

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
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OFFICE OF PETITIONS

In re Patent No. 7,606,330	:	DECISION ON REQUEST
LEBLANC et al	:	FOR
Issue Date: October 20, 2009	:	RECONSIDERATION OF
Application No. 10/320,204	:	PATENT TERM ADJUSTMENT
Filing Date: December 16, 2002	:	
Attorney Docket No. 14061US02	:	

This is a decision on the petition filed on June 18, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from nine hundred sixty-two (962) days to nine hundred sixty-four (964) days.

Patentee requests this correction, in part, on the basis that the Office took in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas. Additionally, patentee disputes the period of reduction of 19 days pursuant to 37 CFR 1.704(c)(10) for the filing of an amendment under 37 CFR 1.312 on August 27, 2009, after the date of mailing of the notice of allowance.

To the extent patentee requests reconsideration of the patent term adjustment on the basis of the reduction under 37 CFR 1.704(c)(10), the petition is **DISMISSED AS UNTIMELY FILED.**

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3) and implementing regulation 37 CFR 1.705(d), any request for reconsideration of the patent term adjustment indicated on the patent must be filed within two (2) months of the date the

patent issued and must comply with the requirements of 37 1.705(b)(1) and (b)(2).

On July 23, 2009, the Office mailed the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application indicating the patent term adjustment was 555 days as of the mailing date of the notice of allowance. Thereafter, on September 30, 2009, the Office mailed the revised Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice revealed that the initial patent term adjustment of 555 days was further reduced by 19 days pursuant to 37 CFR 1.704(c)(10) for a revised total patent term adjustment of 536 days. On October 20, 2009, the application issued as U.S. Patent No. 7,606,330. Patentee did not file a request for reconsideration under 37 CFR 1.705(d) of the revised patent term adjustment disputing the period of reduction under 37 CFR 1.704(c)(10) within two (2) months after the date the patent issued. Rather, patentee filed a REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH* on March 31, 2010, requesting recalculation of the patent term adjustment on the sole basis of the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). On April 21, 2010, the Office mailed a decision granting the request for recalculation and indicating that the patent term adjustment was 926 days. On May 18, 2010, Office mailed a Notice vacating the decision of April 21, 2010, and granting the request for reconsideration to the extent that patentee was entitled to a patent term adjustment of 962 days. On June 18, 2010, patentee filed the present petition under 37 CFR 1.705(d) raising the period of reduction pursuant to 37 CFR 1.704(c)(10) for the first time.

As the present request for reconsideration disputing the period of reduction under 37 CFR 1.704(c)(10) was not filed until June 18, 2010, which is over two (2) months after the date the patent issued, it is appropriate to dismiss this issue as untimely filed under 37 CFR 1.705(d).

To the extent patentee requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the petition is **DISMISSED.** Patentee is given TWO (2) MONTHS to respond to this decision. No extensions of time will be granted under 37 CFR 1.136(a).

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(1) provides that the period of adjustment of the term of a patent shall not include the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on December 17, 2005, and ends on June 4, 2007, the day before the RCE was filed, and is 535 (not 536) days. See 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, the patent term adjustment remains 962 days.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD IL 61107

MAILED
MAR 16 2012
OFFICE OF PETITIONS

In re Application of :
Caldwell Russell L. :
Application No. 10/320,228 : ON PETITION
Filed: December 16, 2002 :
Attorney Docket No. 508768 :
For: CRISPY CHIP SANDWICH PRODUCT

This is a decision on the petition, filed February 10, 2012, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 6, 2009 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on January 7, 2010. A Notice of Abandonment was mailed on April 21, 2010.

Applicant has submitted an amendment in reply to the October 6, 2009 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 6, 2009 non-final Office action, and the $930.00 petition fee.

The statement of unintentional delay was signed by the former attorney of record. His statement covers until March 28, 2011. It is assumed that practitioner made a reasonable inquiry to ascertain that, in fact, the entire delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

Petitioner is informed that the name of the inventor, as typed on the declaration submitted on June 2, 2003 is: Caldwell Russell L.. It is assumed his name is Russell L. Caldwell, as that is how he signed the declaration. Petitioner should file a petition under 37 CFR 1.182, accompanied by the required $400.00 petition fee, to have the signed version, rather than the typed version, be recognized as the inventor's name. MPEP 605.04(b).

After the mailing of this decision, the application will be returned to Technology Center AU 1781 for consideration of the amendment filed on February 10, 2012.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MAR 15 2012
OFFICE OF PETITIONS

REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD, IL 61107

In re Application of
Cadwell Russell
Application No. 10/320,324
Filed: December 16, 2002
Attorney Docket No.: 508769

ON PETITION

This is a decision in response to the petition, filed February 10, 2012[1], to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 11, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 12, 2008. A Notice of Abandonment was mailed on October 1, 2008. On February 10, 2012, the present petition was filed.

The above-identified application has been abandoned for an extended period of time.. The U.S. Patent and Trademark Office is relying of petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $930; and (3) an adequate statement of unintentional delay.

[1] The petition, including the response, is a copy of papers purportedly filed pursuant to 37 CFR 1.8 by previous counsel on April 27, 2009. No supporting evidence has been provided and the original petition and response are not of record in the application file.

The application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the amendment received February 10, 2012.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 083622/00002	
Application Number: 10/320,492	Filing Date (or 371(b) or (f) Date): 12/17/2002
Patent Number: 7,641,919	Issue Date: 01/05/2010
First Named Inventor: Anne D. Frame	
Title: Anti-Bacterial Plant Compositions	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Michael David/	Date August 30, 2010
Name (Print/Typed) Michael David	Registration Number 44,642

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE, MD 21202-1626

Mail Date: 09/07/2010

Applicant	: Anne D. Frame	: DECISION ON REQUEST FOR
Patent Number	: 7641919	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/320,492	: OF WYETH
Filed	: 12/17/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SHELDON & MAK
9TH FLOOR
225 SOUTH LAKE AVENUE
PASADENA, CA 91101

In re Patent No. 7,175,832 :
Issue Date: February 13, 2007 :
Application No. 10/321,187 : NOTICE
Filed: December 17, 2002 :
Attorney Docket No. 11551-4

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

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

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Sheldon Mak Rose & Anderson
100 Corson Street
Pasadena, CA 91103

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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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of Shatz et al. :
Application No. 10/321,704 :
Filing Date: December 16, 2002 :
Attorney Docket No. 58487(71250) :

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 8, 2011.

The deficiency payment of $755 is hereby accepted.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,984,389	2006-01-10	10/322,312	2002-12-16	8449-284-999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Adriane M. Antler/	Date (YYYY-MM-DD)	2010-10-27
Name	Adriane M. Antler	Registration Number	32605

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6984389
Issue Date: January 10,2006
Application No. 10322312
Filed: December 16,2002
Attorney Docket No. 8449-284-999

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 27,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 27,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Gard and Kaslow LLP
4 Main Street, Suite 120
Los Altos CA 94022

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,391,791 :
Issued: June 24, 2008 :
Application No. 10/322,335 : NOTICE
Filed: December 17, 2002 :
Attorney Docket No. PA1045US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Bib Data Sheet

CONFIRMATION NO. 5675

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/322,335	12/17/2002 RULE	370	2616	PA1045US

APPLICANTS

Edward Balassanian, Bellevue, WA;
Scott W. Bradley, Kirkland, WA;

**** CONTINUING DATA ***************************

This appln claims benefit of 60/341,574 12/17/2001

**** FOREIGN APPLICATIONS ********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 02/05/2003

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed ☐ yes ☐ no 35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance Verified and Acknowledged Examiner's Signature Initials		WA	10	31	5

ADDRESS
80641

TITLE

METHOD AND SYSTEM FOR SYNCHRONIZATION OF CONTENT RENDERING

FILING FEE RECEIVED	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit
923		

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LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,379,087 :
Issue Date: May 27, 2008 :
Application No. 10/322,421 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. 402426 :

This is a decision on the petition filed September 29, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "NTT DoCoMo, Inc." and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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AUG 04 2010

OFFICE OF PETITIONS

JAMES E. MROSE
4719 RIVER ROAD
BETHESDA MD 20816-3034

In re Application of	:	CORRECTED DECISION
PALFY, Valerie et al.	:	
Application No. 10/322,648	:	DECISION ON PETITION
Filed: December 19, 2002	:	TO WITHDRAW
Attorney Docket No. **09781-003001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2010.

The request is **APPROVED**.

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

The request was signed by James Mrose, the sole attorney of record. James Mrose has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **VALERIE PALFY AND DON A. SKOMSKY**
P.O. BOX 11
PAOLI, PA 19301

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Patent No. 7,477,224 :
Issue Date: January 13, 2009 :
Application No. 10/322,770 : DECISION ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. 8733.597.01 :

This is a decision on the petition under 37 CFR 1.182, filed May 12, 2011, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management at (703) 756-1555.

A copy of this decision is being sent to Office of Data Management for issuance of duplicate Letters Patent.

Charlema Grant
Attorney
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/16/11

TO SPE OF : ART UNIT 1782

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/322,896 Patent No.: 7,919,161

CofC mailroom date: 05/04/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

Rena L. Dye, SPE AU 1782

SPE **Art Unit**

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MAR 31 2011

OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of :
Richard Bryan Sagar et al. :
Application No. 10/323,007 : ON PETITION
Filed: December 18, 2002 :
Attorney Docket No: US020199US :

This is a decision on the petition filed March 1, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 31, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned September 1, 2005. Accordingly, a Notice of Abandonment was mailed March 23, 2006.

The instant petition lacks item (3) under 37 CFR 1.137(b).

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

While petitioners argue that the delay in filing a timely response to the May 31, 2005 non-Final Office Action was unintentional, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (more than five years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was

unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 31, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, counsel of record at the time of abandonment should explain why this application became abandoned while it was under their control and what efforts were made to further reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the attorney of record at the time and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional

information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons, having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Application of :
Richard Bryan Sagar et al. :
Application No. 10/323,007 : ON PETITION
Filed: December 18, 2002 :
Attorney Docket No: US020199US :

This is a decision on the petition filed May 31, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 31, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned September 1, 2005. Accordingly, a Notice of Abandonment was mailed March 23, 2006. A petition filed March 1, 2011 was dismissed in a decision mailed March 31, 2011 because while petitioners argued that the delay in filing a timely response to the May 31, 2005 non-Final Office Action was unintentional, the delay was not shown to the satisfaction of the Director to be unintentional.

Comes now petitioner with the instant renewed petition.

The filing of the response on March 1, 2011, to the non-Final Office Action mailed May 31, 2005, is acknowledged.

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

All other requirements having been met , this matter is being referred to Technology Center 2163 for further examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111121

DATE : November 20, 2011

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,601,685

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/ROBERT MONDESI/
Supervisory Patent Examiner.Art Unit 1652

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : **7940671**
Ser. No. : **10/323246**
Inventor(s) : **MEURER, VANCE LEE**
Issued : **05/10/2011**
Title : **SYSTEMS AND METHODS FOR MULTIPLEXING NETWORK ALARM SIGNALS**
Docket No. : **020366-087800US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

In regards to the alleged error(s) in the Specification, Column 3 & 5, Lines 55, 62, and 66 are printed in accordance with the Specification filed on 12-18-02. A $100 fee is required for an applicant's error.

In view of the foregoing, your request, in this matter, is hereby denied.

A Certificate of Correction can be issued if the $100 fee is accompanied with the request.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

Qwest Communications International Inc.
1801 California Street, # 900
Denver CO 80202

OL

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7020787	2006-03-28	10323419	2002-12-18	ID 028911

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2011-09-14
Name	Steven M. Gruskin	Registration Number	36818

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7020787
Issue Date: March 28,2006
Application No. 10323419
Filed: December 18,2002
Attorney Docket No. 72478-2100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 14,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Beyer Law Group LLP
P.O. BOX 1687
Cupertino CA 95015-1687

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of :
Ishidoshiro :
Application No. 10/323,462 : NOTICE
Filed: December 18, 2002 :
Attorney Docket No. MES1P072 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 12, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY C. BROWN
3987 E. HERRERA DRIVE
PHOENIX, AZ 85050

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Reissue Patent No. RE 39,730 :
Issued: July 17, 2007 :
Reissue Application No. 10/323,473 : ON PETITION
Filed: September 20, 1999 :
Original Patent No. 6,163,256 :
Issued: December 19, 2000 :
For: BRAKE LIGHT APPARATUS :

This is a decision in response to a petition under 37 CFR 1.378(c), filed December 19, 2010, to accept an unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition cannot be accepted in the above-identified patent since the petition does not appear to be signed by an attorney or agent registered to practice before the Patent and Trademark Office, the patentee, or the assignee or other party in interest as established by 37 CFR 3.73(b) [1].

Accordingly, the petition is **DISMISSED**.

If reconsideration of this decision is desired, a properly signed petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).**

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

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

[1] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

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

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

By Internet: EFS-Web[2]

A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARK BRUCE DUNCAN
410 S.E. 2ND ST., APT. 401
HALLANDALE BEACH, FL 33009

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY C. BROWN
3987 E. HERRERA DRIVE
PHOENIX, AZ 85050

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Reissue Patent No. RE39,730	:	
Issue Date: July 17, 2007	:	
Reissue Application No. 10/323,473	:	ON PETITION
Filed: September 20, 1999	:	
Original Patent No. 6,163,256	:	
Issue Date: December 19, 2000	:	
For: BRAKE LIGHT APPARATUS	:	

This is a decision on the renewed petition under 37 CFR 1.378(e), filed May 23, 2011, requesting reconsideration of a prior decision which refused to accept the delayed payment of a maintenance fee under 37 CFR 1.378(c) for the above identified patent.

The renewed petition is found to comply with the requirements of 35 U.S.C. 41(c) and 37 CFR 1.378(c) (d) and (e). Accordingly, the petition is **GRANTED**.

The 7 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. Petitioner is reminded, however, that the mere filing of a change of correspondence address does not affect fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, an appropriate "fee address" and/or "customer number" form should be submitted to the Maintenance Fee Division. A courtesy copy of this decision is being mailed to the address given on the petition.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARK BRUCE DUNCAN
410 S.E. 2ND ST., APT. 401
HALLANDALE BEACH, FL 33009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI L.L.P.
ATTN: MN IP DOCKET
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Serhan et al.	:	
Application No. 10/323,591	:	ON PETITION
Filed: December 18, 2002	:	
Attorney Docket No. BWHI-049/US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and requisite fee, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1627 for processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 filed concurrently with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 6,974,868 B2
Ser. No. : 10/323,655
Inventor(s) : Hardern et al.
Issued : Dec.13, 2005
Title : COMPOUNDS
Docket No. : 3764-130
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY, SUITE 2110
AUSTIN, TX 78759

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Paul T. BAFFES, et *al.* :
Application No. 10/324,514 : DECISION ON PETITION TO
Filed: December 19, 2002 : WITHDRAW FROM RECORD
Attorney Docket No. **AUS920020543US1** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Andrew J. Dillon on behalf of all attorneys of record. Andrew J. Dillon has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Application of :
Dipiano et al. : DECISION ON
Application No. 10/324,624 : PETITION
Filed: December 19, 2002 :
Atty Docket No. FEM 103 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 22, 2011.

The petition is **GRANTED**.

A final Office action was mailed September 30, 2010. A notice of appeal made timely, by an accompanying petition for extension of time within the third month, was filed on March 25, 2011. However, no appeal brief or further reply filed and no extension of time obtained, the application became abandoned. A courtesy Notice of Abandonment was mailed on November 16, 2011.

The petition includes the required reply in the form of a request for continued examination (RCE)(RCE fee) and submission (an amendment), petition fee and the required statement of unintentional delay. All requirements of 37 CFR 1.137(b) have been met.

Technology Center AU 1617 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the request for continued examination (RCE) and submission submitted on petition filed December 22, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT GROUP
MACDONALD, ILLIG, JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE PA 16507-1459

MAILED
JAN 12 2011
OFFICE OF PETITIONS

In re Application of :
Brian E. CARRIER, et al. :
Application No. 10/324,630 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No.: 19402.0004 :

This is a decision on the petition under 37 CFR 1.181(a)(3) filed April 22, 2010, requesting supervisory review of the decision of the Director of Technology Center 3600 (Technology Center Director) dated February 24, 2010, which decision refused to set aside the reopening prosecution of the above-identified application under 37 CFR 1.198. The instant petition requests that the examiner be directed to close prosecution in the above-identified application, reinstate the Board of Patent Appeals and Interferences (BPAI) decision of May 30, 2008, and issue a notice of allowance with respect to the pending claims.

The petition to direct that prosecution be closed and a notice of allowance be issued in the above-identified application is **DENIED**.

BACKGROUND

On October 6, 2005, a final Office action was mailed. The final Office action of October 6, 2005 rejected claims 21-41 under 35 U.S.C. § 103(a) as follows: (1) claims 36 and 37 over Simmons in view of admitted prior art (AAPA); (2) claims 31-33, 35, 38, and 39 over Simmons in view of AAPA and Abner; (3) claims 26 and 27 over Simmons in view of Templeton; (4) claims 21-25 and 28-30 over Simmons in view of Templeton and Abner; (5) claims 34, 40 and 41 over Simmons in view of AAPA, Abner and Templeton; (6) claims 21-30 over Abner in view of Templeton and Simmons; and (7) claims 31-41 over Abner in view of Templeton, Simmons and AAPA.

On March 3, 2006, a Notice of Appeal was filed, and on April 28, 2006, an Appeal Brief was filed. On November 8, 2006, an Examiner's Answer in response to the Appeal Brief was mailed.

On May 30, 2008, a decision by the Board of Patent Appeals and Interferences (BPAI) was mailed. The BPAI decision of May 30, 2008, reversed the rejections of claims 21-30 under 35 U.S.C. § 103(a) and affirmed the rejections of claims 31-41 under 35 U.S.C. § 103(a). The BPAI decision of May 30, 2008 specifically reversed the following rejections: (1) the rejection of claims 31-33, 35, 38, and 39 over Simmons in view of AAPA and Abner; (2) the rejection of claims 26 and 27 over Simmons in view of Templeton; (3) the rejection of claims 21-25 and 28-30 over Simmons in view of Templeton and Abner; (4) the rejection of claims 34 and 40-41 over Simmons in view of AAPA, Abner and Templeton; and (5) the rejection of claims 21-30 over Abner in view of Templeton and Simmons. The BPAI decision of May 30, 2008 specifically affirmed the following rejections: (1) the rejection of claims 36 and 37 over Simmons in view of AAPA; and (2) the rejection of claims 31-41 over Abner in view of Templeton, Simmons and AAPA. The BPAI decision of May 30, 2008 specifically stated with respect to its decision to reverse each of the rejection of claims 26-27 over Simmons in view of Templeton, claims 21-25 and 28-30 over Simmons in view of Templeton and Abner, and claims 21-30 over Abner in view of Simmons and Templeton, that—

> "[t]he Examiner did not include AAPA in this rejection, which appears to be the only prior art that shows an all terrain vehicle being drivable across terrains that include at least uneven ground, mud, deep water, heavy swamps, and slippery ground. . . . [w]ithout the Appellants' admission as to the prior art in AAPA, we find that [none of Abner, Simmons, or Templeton] provides the required teaching of the claimed terrains."

See BPAI decision of May 30, 2008, at 12-15.

On September 16, 2008, a non-final Office action reopening prosecution in the above-identified application was mailed. The non-final Office action of September 16, 2008 contained the following rejections: (1) a rejection of claims 21-25, 29-35, and 39-41 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement; (2) a rejection of claims 21-25, 29-35, and 39-41 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; (3) a rejection of claims 21-41 under 35 U.S.C. § 103(a) as unpatentable over Abner in view of Templeton, Simmons and AAPA; (4) a rejection of claims 26 and 27 under 35 U.S.C. § 103(a) as unpatentable over Simmons in view of AAPA and Templeton; (5) a rejection of claims 36 and 37 under 35 U.S.C. § 103(a) as unpatentable over Simmons in view of

AAPA; and (6) a rejection of claims 31-41[1] under 35 U.S.C. § 103(a) as unpatentable over Abner in view of Templeton and Simmons and further in view of AAPA. The non-final Office action of September 16, 2008 reopening prosecution in the above-identified application was approved by the Technology Center Director.

On October 20, 2008, a petition requesting the non-final Office action be withdrawn and the above-identified application be allowed was filed, and on February 24, 2010, a decision denying the petition filed October 20, 2008 was mailed.

On July 1, 2009, a final Office action was mailed. The final Office action of July 1, 2009 contained the following rejections: (1) a rejection of claims 21-25, 29 and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; (2) a rejection of claims 21-30 under 35 U.S.C. § 103(a) as unpatentable over Abner in view of Templeton, Simmons and AAPA; and (3) a rejection of claims 26 and 27 under 35 U.S.C. § 103(a) as unpatentable over Simmons in view of AAPA and Templeton.

On December 30, 2009, a Notice of Appeal was filed, and on March 1, 2010, an Appeal Brief was filed.

On April 22, 2010, the instant petition was filed.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. § 131 states:

> The Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.

35 U.S.C. § 132 states:

> (a) Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application; and if after

[1] Applicant did not appeal the BPAI decision of May 30, 2008, which affirmed the rejection of claims 31-41 and applicant did not cancel these claims at the time when the examiner issued the non-final Office action.

> receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.

37 CFR 1.198 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

MPEP 1214.04 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

OPINION

Petitioner requests supervisory review the Technology Center Director's decision, and that the examiner be directed to close prosecution in the above-identified application, reinstate the BPAI decision of May 30, 2008, and issue a notice of allowance with respect to the pending claims. Petitioner argues that: (1) the examiner is attempting to re-argue subject matter that has already been decided by the BPAI; and (2) the Office is failing to follow 37 CFR 1.198 and the procedures set forth in MPEP 1214.04.

The USPTO's reviewing courts have specifically held that even a court decision reversing a rejection does not preclude further examination of the application by the USPTO subsequent to examination provided for in 35 U.S.C. §§ 131 and 132 and the BPAI and court review provided for in 35 U.S.C. §§ 134 and 141. See Jeffrey Mfg. Co. v Kingsland, 179 F.2d 35, 83 USPQ 494 (D.C. Cir. 1949), see also In re Gould, 673 F.2d 1385, 1386, 213 USPQ 628, 629 (CCPA 1982) (USPTO can always reopen prosecution in an application under an ex parte court appeal once it regains jurisdiction over the application); In re Arkley, 455 F.2d 586, 589, 172 USPQ 524, 527 (CCPA 1972) (the USPTO is free to make such other rejections as it consider appropriate

subsequent to a court decision reversing a rejection); In re Fisher, 448 F.2d 1406, 1407, 171 USPQ 292, 293 (CCPA 1971) (reversal of rejection does not mandate issuance of a patent); In re Ruschig, 379 F.2d 990, 993, 154 USPQ 118, 121 (CCPA 1967) (subsequent to a court decision reversing a rejection, the USPTO may reopen prosecution and reconsider previously withdrawn rejections that are not inconsistent with the decision reversing the rejection); In re Citron, 326 F.2d 418, 418-19, 140 USPQ 220, 221 (CCPA 1964) (following a decision reversing a rejection of claims, the USPTO has not only the right but the duty to reject claims deemed unpatentable over new references). Accordingly, it is well established that if there is any substantial, reasonable ground within the knowledge or cognizance of the Director why the application should not issue, the Director has the authority, much less the duty, to refuse to issue the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir. 1896).

37 CFR 1.198 permits the reopening of prosecution in an application subsequent to a decision by the BPAI with the written authority of the Director. The authority to permit the reopening of prosecution subsequent to a decision by the BPAI under 37 CFR 1.198 has been delegated to the Technology Center Director. See MPEP 1002.02(c). While petitioner is understandably unhappy with the reopening of prosecution in the above-identified application, as stated by the CCPA—

> While appellant may have just cause of complaint that the Patent Office should have operated more effectively in finding the closest prior art...this is of no moment whatever in deciding appellant's legal right to the appealed claims in the face of the new prior art now that it has been cited.

Citron, 140 USPQ at 221.

In the above-identified application, the reopening of prosecution is for the consideration of matters not already adjudicated. The BPAI does not allow claims: it simply decides on the record before it whether to affirm or reverse the examiner's rejection. See Ex Parte Alpha Industries, Inc., 22 USPQ2d 1851,1857 (BPAI 1992). While a decision by the BPAI to reverse the examiner's rejection generally results in the allowance of the application, such a decision does not require the examiner to allow the application. See id. In addition, while the BPAI has the authority to issue a new rejection in its decision, the fact that the BPAI does not enter a new ground of rejection in its decision is not an indication that the BPAI considers a claim to be allowable. See id.

A review of the record of the above-identified application indicates that the examiner did **not** reopen prosecution to challenge or disagree with the BPAI decision of May 30, 2008, but rather the examiner reopened prosecution to address matters not adjudicated in the BPAI decision of May 30, 2008. In the above-identified application, the BPAI indicated that the rejections under 35 U.S.C. § 103(a) of claims 21-25 and 28-30 over Simmons in view of Templeton and Abner, and claims 21-30 over Abner in view of

Simmons and Templeton, were reversed because "the Examiner did not include AAPA in this rejection, which appears to be the only prior art that shows an all terrain vehicle being drivable across terrains that include at least uneven ground, mud, deep water, heavy swamps, and slippery ground." See BPAI decision of May 30, 2008, at 12-15. Consistent with this statement in the BPAI decision of May 30, 2008, the examiner reopened prosecution to, *inter alia*, include new rejections under 35 U.S.C. § 103(a) which included the teaching from AAPA: specifically, a rejection of claims 21-30 under 35 U.S.C. § 103(a) as unpatentable over Abner in view of Templeton, Simmons, and AAPA, and a rejection of claims 26 and 27 under 35 U.S.C. § 103(a) as unpatentable over Simmons in view of AAPA and Templeton. The BPAI decision of May 30, 2008 did not adjudicate whether claims 21-30 are patentable under 35 U.S.C. § 103(a) over Abner in view of Templeton, Simmons, and AAPA, or whether claims 26 and 27 are patentable under 35 U.S.C. § 103(a) over Simmons in view of AAPA and Templeton. Additionally, the examiner included new rejections under 35 U.S.C. § 112, first and second paragraphs, which are also matters not already adjudicated as no rejections under 35 U.S.C. § 112, first or second paragraph, in the above-identified application were previously adjudicated by the BPAI. Accordingly, the reopening of prosecution in the above-identified application was solely for the consideration of matters not already adjudicated in the BPAI decision of May 30, 2008, and thus consistent with 37 CFR 1.198 and MPEP 1214.04.

The request that the BPAI decision of May 30, 2008 be reinstated is moot as the BPAI decision of May 30, 2008 has never been withdrawn. The BPAI decision of May 30, 2008 simply does **not** mandate either the allowance of pending claims or withdrawal of any of the rejections in the final Office action of July 9, 2009.

Petitioner's remaining arguments are, in essence, that the contents of the Office action, or the form of the rejection and its supportive reasoning, or both, are facially insufficient to demonstrate sufficient cause for reopening of prosecution. These arguments go to the merits of the rejection set forth in that Office action, as opposed to the propriety of the reopening of prosecution in the above-identified application under 37 CFR 1.198. Any review of the propriety of a rejection *per se* (and its underlying reasoning) is by way of an appeal as provided by 35 U.S.C. § 134, and not by way of petition. See Boundy v. U.S. Patent & Trademark Office, 73 USPQ2d 1468, 1472 (E.D. Va. 2004). It is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the BPAI. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971). The USPTO has an obligation to refrain from knowingly issuing an invalid patent. See, e.g., Blacklight Power, Inc. v. Rogan, 295 F.3d 1269, 1273-74, 63 USPQ2d 1534, 1537-38 (Fed. Cir. 2002) (permitting extraordinary action in withdrawing an application from issue after payment of the issue fee and reopening prosecution to avoid knowingly issuing an invalid patent). Therefore, reopening prosecution after a BPAI decision to avoid issuing a patent containing claims that are believed to be

unpatentable for reasons not previously adjudicated by the BPAI or the courts is sufficient cause within the meaning of 37 CFR 1.198.

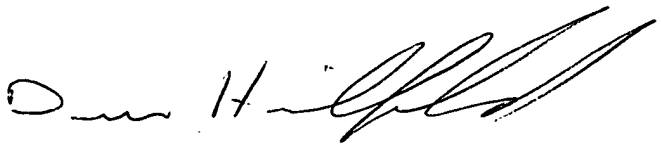
DECISION

The instant petition is granted to the extent that the action of the Technology Center Director has been reviewed, but is **denied** with respect to directing that prosecution be closed and a notice of allowance be issued in the above-identified application.

Upon entry of a final decision by the BPAI, this decision becomes a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02.

The above-identified application is being referred to Technology Center 3600 for further processing consistent with this decision.

Telephone inquires concerning this decision may be directed to Petitions Examiner David Bucci at (571) 272-7099.



Andrew H. Hirshfeld
Associate Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 6,883,083 B1
Ser. No. : 10/324,786
Inventor(s) : Kemkar
Issued : Apr. 19, 2005
Title : SYSTEM AND METHOD FOR MAINTAINING AND ACCESSING INFORMATION REGARDING VIRTUAL STORAGE DEVICES
Docket No. : VRT0039US
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

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WWW.USPTO.GOV

Paper No.

Rhodia Inc.
8 CEDAR BROOK DRIVE
CN 7500
Cranbury NJ 08512

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OFFICE OF PETITIONS

In re Application of :
Frantz et al. :
Application No. 10/325,150 :
Filed: December 20, 2002 : DECISION ON PETITION
Attorney Docket No. RD 02007 : UNDER 37 C.F.R. § 1.137(B)
Title: COMBINED STABLE CATIONIC :
AND ANIONIC SURFACTANT :
COMPOSITIONS

This is a decision on the petition filed May 13, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 12, 2009, which set a shortened statutory period for reply of three months. An after-final amendment was received on May 12, 2010 along with a three-month extension of time, and an advisory action was mailed on June 29, 2010. No additional extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on May 13, 2010. A notice of abandonment was mailed on July 6, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed a Request for Continued Examination (RCE) along with the required fee, the petition fee, and the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on May 12, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/30/10

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10325375 Patent No.: 7393529

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

[redacted]

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

x**Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

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Comments: Applicant has fixed an obvious error in the sequence listing. The corrected sequence is supported by Figure 6 as originally filed, and no new matter has been added.

RAM R. SHUKLA, PH.D. AU 1644
SUPERVISORY PATENT EXAMINER

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,855,542
Issue Date: February 15, 2005
Application No. 10/325,437
Filed: December 19, 2002
Attorney Docket No. 68603.130US2

This is a decision on the petition under 37 CFR 1.378(c), filed February 10, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 16, 2009 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that applicant submitted the payment for the second maintenance fee instead of the first maintenance fee on February 10, 2011, along with the petition. However, Office finance records show that the first maintenance fee ($490.00) and another petition fee ($1,640.00) were paid on February 15, 2011. Therefore, the second maintenance fee ($1,240.00) paid on February 10, 2011, and the second petition fee ($1,640.00) paid on February 15, 2011, are being credited to petitioner's credit card account, as it is the method in which the fees were paid.

Petitioner should be aware that the second maintenance fee is due 2012.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,993,421	2006-01-31	10/325,439	2002-12-20	061300-0230

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey S. Gundersen/	Date (YYYY-MM-DD)	2010-08-04
Name	Jeffrey S. Gundersen	Registration Number	47619

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6993421
Issue Date: January 31,2006
Application No. 10325439
Filed: December 20,2002
Attorney Docket No. 061300-0230

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6978815	2005-12-27	10/325,444	2002-12-19	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Ravi Dipali/	Date (YYYY-MM-DD)	2011-07-27
Name	Ravi Dipali	Registration Number	60553

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6978815
Issue Date: December 27,2005
Application No. 10325444
Filed: December 19,2002
Attorney Docket No. 56001/02141

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 27,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 27,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Jonathan A. Bay
Attorney at Law
333 Park Central East, Ste. 314
Springfield MO 65806

MAILED

OCT 2 2 2010

OFFICE OF PETITIONS

Paper No. 10

In re Patent No. 6,643,999
Issue Date: November 11, 2003
Application No. 10/325,454
Filed: December 20, 2002
Inventor: Rickie A. Wheat

DECISION ON PETITION

This is a decision on the petition for expungement of information, filed February 3, 2010, which is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified application.

The petition is **dismissed**. This is not a final agency action.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing a petition for expungement of an assignment under 37 CFR 1.182. In this instance, the fee required by law is $400.

The petition in the above identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

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

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Rickie A. Wheat
Rt. 1, Box 510
Batesville, Arkansas 72501

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jonathan A. Bay
1736 E. Sunshine, Ste. 410
Springfield MO 65804

MAILED
DEC 27 2010
OFFICE OF PETITIONS

Paper No. 12

In re Patent No. 6,643,999
Issue Date: November 11, 2003
Application No. 10/325,454
Filed: December 20, 2002
Inventor: Rickie A. Wheat

DECISION ON PETITION

This is a decision on the renewed petition for expungement of information, November 1, 2010, which is being treated as petitions under 37 CFR 1.182 to invalidate an assignment previously recorded against the above-identified application.

The petition is **dismissed**. This is not a final agency action.

The first petition filed February 3, 2010 was dismissed for failure to provide the required petition fee. The renewed petition includes the required fee.

Petitioner indicates an assignment recorded on October 31, 2008 was erroneously filed for the above identified application and requests this assignment record be expunged from the file.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through §323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

In regard to B, petitioner has not sufficiently explained how the removal of a document in its entirety will not affect the assignment records. The removal of a document in its entirety will affect the assignment records. The integrity of the records is recognized as separate from the chain of title, and the USPTO endeavors to maintain a complete history of claimed interests in a given property to permit, among other things, the review of matters like chain of title by a competent authority.

Moreover, petitioner seeks an extraordinary remedy, properly addressed under 37 CFR 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 if the rules

of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP §314). As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR 3.11. However, the recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

Review of the assignment records show that petitioner filed a corrected assignment document which was recorded on February 3, 2010.

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

Christopher Bottorff
Supervisor
Office of Petitions

cc: Rickie A. Wheat
Rt. 1, Box 510
Batesville, Arkansas 72501

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/325,561	12/20/2002	Jen C. Lin	01-3805	2617

8840 7590 06/08/2011

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100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001

EXAMINER	
MORILLO, JANELL COMBS	
ART UNIT	PAPER NUMBER
1742	

MAIL DATE	DELIVERY MODE
06/08/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

6/8/11

In re Patent No. LIN ET AL.
Issue Date: August 31, 2004
Appl No.: 10/325,561
Filed: December 20, 2002
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed December 03, 2004 to correct inventorship under 37 CFR 1.324.

The petition is GRANTED.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

_/Roy King/_____
roy king
Supervisory Patent Examiner
Art Unit 1733
Technology Center 1700

INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER, BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: June 7, 2011
TO: Certificates of Correction Branch
FROM: Roy King
SPE, Art Unit 1733
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,783,730 as specified on the attached Certificate.

/Roy King/

roy king, SPE
Art Unit 1733

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,683,730
Patented: August 31, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Jen C. Lin, Export,PA
Vadim S. Zolotorevsky, Russian
Michael V. Glazoff, Pittsburg, PA
Shawn J. Murtha, Monroeville, PA
Nicholas A. Belov, Moscow, Russian
Holger Haddenhorst, Gunnigfelderstr, 12 Germany
Frank Klueppel, Medenbach, Germany

/Roy King/

roy king
Supervisory Patent Examiner
Art Unit 1733

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN LLP - SABIC EXATEC
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Patent No. 6,776,100 :
Issued: August 17, 2004 :
Application No. 10/325,581 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No: 10EXT0015-US-NP :

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission filed January 27, 2012.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission in the amount of $9015, under 37 CFR 1.28, is hereby accepted. Additionally, petitioner's deposit account no. 06-1130 has been charged in the amount of $75 to cover the deficiency owed for the 3.5 year maintenance fee ($65) and the late payment surcharge ($10).

The petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TONY F. TAOUIL
5122 EAST SHEA BLVD., #2149
SCOTTSDALE, AZ 85254

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of :
Tony F. Taouil :
Application No. 10/325,598 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket Number: TAOU-0466 :

This is a decision in response to the communication filed January 26, 2005, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 (no fee) in the above-identified application.

The petition under 1.181 is **GRANTED**.

On July 28, 2003, the Office mailed a Non final Office action in the above mentioned application, which set a shortened statutory period for reply of three (3) months. The application was held abandoned on October 29, 2003, for failure to submit a timely reply to the Office action. On November 12, 2004, the Office mailed a Notice of Abandonment.

Petitioner asserts that a timely reply to the Office action was filed on September 26, 2003, which included the following papers: an amendment including corrected drawings.

A review of the file record indicates that a response was received by the Office on September 26, 2003. However, since the response was not properly labeled with an application number and filing date it was accepted by the Office and processed as a new application.

Petitioner's attention is directed to the Manual of Patent Examining Procedure (MPEP) section 502, 37 CFR 1.5 – Identification of patent, patent application, or patent-related proceeding – states that when a letter is directed to the Patent and Trademark Office that concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office.

Any subsequent correspondences should be directed to the above mentioned application number (10/325,598).

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of July 28, 2003, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3764 for appropriate action in the normal course of business on the reply filed September 26, 2003.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110429

DATE : April 29, 2011

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7238499

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Amendment to Claim 20 not entered. Applicants argue that this is a PTO error and argue to look at the amendment of 07/21/06. However, the correct version of the claims was set forth in the examiner's amendment of 12/08/06.

Amendment to Claim 21 not entered. Applicants argue that this is a PTO error and to see the examiner's amendment on page 5. This is not persuasive. The last amendment to claim 21 was negotiated in the examiner's amendment mailed with the Quayle action of 08/18/06.

Everything else is OK to enter.

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

S.N. 10/326186

Paper No.:20110429

DATE : April 29, 2011

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7238499

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** — All changes apply.

☒ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

Amendment to Claim 20 not entered. Applicants argue that this is a PTO error and argue to look at the amendment of 07/21/06. However, the correct version of the claims was set forth in the examiner's amendment of 12/08/06.

Amendment to Claim 21 not entered. Applicants argue that this is a PTO error and to see the examiner's amendment on page 5. This is not persuasive. The last amendment to claim 21 was negotiated in the examiner's amendment mailed with the Quayle action of 08/18/06.

Everything else is OK to enter.

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

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MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER, SUITE 2800
SAN FRANCISCO CA 94105

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,276,381	:	
Issue Date: October 2, 2007	:	
Application No. 10/326,219	:	NOTICE
Filed: December 20, 2002	:	
Attorney Docket No. 062499-5003US01	:	

This is a notice regarding your request, May 3, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Fanslow et al.	:	ON REQUEST FOR
Application No. 10/327322	:	RECONSIDERATION OF
Filing or 371(c) Date: 12/20/2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
3288-US-NP	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)," filed June 10, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent should be 680 days, not 259 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

MAILED
JAN 10 2011
OFFICE OF PETITIONS

In re Patent of Zentner et al. :
Patent No. 6,730,327 :
Issue Date: May 4, 2004 : Letter
Application No. 10/327,457 :
Filing Date: December 20, 2002 :
Attorney Docket No. 68936.001072 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 15, 2010.

Patentees instruct the Office to charge a $450 deficiency to Deposit Account No. 50-0206 and authorize the Office to charge any other necessary fees to the deposit account.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The current 3.5 year fee amount due for large entities is $980. Patentees submitted $465 on November 5, 2007. Therefore, the deficiency owed is $515. Office records indicate the sum of $515, not $450, was charged to Deposit Account No. 50-0206 on September 16, 2010.

In view of the prior discussion, the deficiency payment of $515 is accepted.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MCDONNELL BOEHNEN HULBERT @ BERGHOFF LLP
300 SOUTH WACKER DRIVE, SUITE 3100
CHICAGO, IL 60606

MAILED

JAN 05 2011

OFFICE OF PETITIONS

In re Application of :
Christopher D. BAYNE, et *al.* :
Application No. 10/327,813 : DECISION GRANTING PETITION
Filed: December 20, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **06-002-A** :
(980049.411)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 4, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,182,957 :
Issue Date: February 27, 2007 :
Application No. 10/327,814 : NOTICE
Filed: December 20, 2002 :
Attorney Docket No. 68936.001081 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

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

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MAILED

SEP 27 2010

OFFICE OF PETITIONS

MAYER BROWN LLP
P.O. Box. 2828
Chicago IL 60690

In re Application of	:	
Kibong Song, et al.	:	DECISION ON PETITION
Application No. 10/327,884	:	TO WITHDRAW
Filed: December 26, 2002	:	FROM RECORD
Attorney Docket No. P68516US0	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed August 5, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET, SUITE 105
ALEXANDRIA, VA 22314

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of :
Yaron Mayer :
Application No. 10/328,088 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No: 10100 :

This is a decision on the petition filed November 19, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 18, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned June 19, 2009. Accordingly, a Notice of Abandonment was mailed November 3, 2009.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office must inquire into

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

This matter is being referred to Technology Center 2161 for appropriate action on the amendment filed November 19, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Patent No. 6,753,817 :
Issue Date: June 22, 2004 :
Application No. 10/328,289 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. WAKA 20.184 :

This is a decision on the petition filed July 9, 2010, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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JUN 30 2011

OFFICE OF PETITIONS

LSI LOGIC CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
M/S D-106
1551 MCCARTHY BOULEVARD
MILPITAS, CA 95035

In re Patent No. 7,305,038	:	
Issued: December 4, 2007	:	
Application No. 10/328,764	:	NOTICE
Filed: December 23, 2002	:	
Attorney Docket No.: 02-5930/L13.12-0218	:	

This is in response to the communication filed May 31, 2011, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

This patent no longer qualifies for small entity status. Accordingly, any future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/328,767	12/24/2002	Alexander I. Poltorak	MI/AP/03	9405

7590 09/09/2011

General Patent Corporation
Montebello Park
75 Montebello Road
Suffern, NY 10901

EXAMINER	
SWARTHOUT, BRENT	
ART UNIT	PAPER NUMBER
2612	
MAIL DATE	DELIVERY MODE
09/09/2011	PAPER

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

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

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General Patent Corporation
Montebello Park
75 Montebello Road
Suffern NY 10901

In re Application of
POLTORAK, ALEXANDER I.
Application No. 10/328,767
Filed: December 24, 2002
For: **APPARATUS AND METHOD FOR PROVIDING FOR THE REMOTE CONTROL OF TRAFFIC CONTROL DEVICES ALONG A TRAVEL ROUTE**

DECISION
ON PETITION

This is a decision on the petition filed July 21, 2011, pursuant to 37 CFR § 1.181(a) requesting that ground of rejection set forth in Examiner's Answer on Appeal be designated as a new ground of rejection.

PERTINENT BACKGROUND

A final Office action was issued January 7, 2010 rejecting claims 1,45,55,98,101,104,145,155,196 and 199 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al. in view of Morrison and Matta.

A response to the final Office action was timely filed and received in the Patent and Trademark Office (PTO) on April 9, 2010. Applicant argued for patentability over Yee et al. in view of Morrison and Matta in view of the accompanying proposed amendment after final rejection.

An advisory action was issued April 23, 2010 denying entry of the proposed after final rejection amendment as raising new issues which would require further consideration and/or search.

A Request for Continuing Examination was filed June 7, 2010 including an amendment to the claims.

A non-final Office action was issued on June 16, 2010 rejecting claims 1,45,55,98,101,104,145,155,196 and 199 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al. in view of Morrison, Matta and Brown et al. The office states:

> Furthermore, since Matta teaches desirability of using control system 32 to detect state of traffic signal to determine if signal needed to be preempted based on incoming control signal, and Brown teaches desirability of sending traffic signal control signal responsive to received traffic signal status signal, choosing to use vehicle computer to detect traffic signal state would have been obvious in order to ensure that preemptive signal was only sent when traffic signal needed to be changed and to ensure that only vehicles in a desired direction were communicated to.

A response to the non-final Office Action was filed September 15, 2010, arguing patentability over Yee et al. in view of Morrison, Matta, and Brown et al.

A final Office action was issued November 9, 2010 rejecting claims 1,45,55,98,101,104,145,155,196 and 199 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al. in view of Morrison, Matta and Brown et al. In response to the arguments, the Office Action states:

> Regarding remarks filed with the response on 9-15-10, on page 46 it is stated that Brown does not disclose that vehicle computer has knowledge of the state of the traffic signal. However, since vehicle receives DCODE from the traffic signal indicating the particular intersection direction of the traffic signal (col. 3, lines 34-37), such would have indicated traffic signal status to the processing equipment at the vehicle.

An Appeal Brief was filed April 4, 2011.

An Examiner's Answer was issued on June 7, 2011. The final Office action repeated, rejecting claims 1,45,55,98,101,104,145,155,196 and 199 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al. in view of Morrison, Matta and Brown et al with the following further explanation:

> ... choosing to use vehicle computer to detect traffic signal state would have been obvious to one of ordinary skill in the art, since this would have simply involved using the known technique suggested by Matta of only providing a signal to change a traffic control indicator when it was necessary to do so by the indicator light being red (col. 3, lines 6-15) at a vehicle location instead of at an equivalent fixed location, in a known traffic signal remote control light changing system, providing the predictable result of only having the traffic light changed when it was in a state preventing movement in a desired direction of travel, in order to ensure that preemptive signal was only sent when traffic signal needed to be changed and to ensure that only vehicles in a desired direction were communicated to. It is noted that the traffic light change would have been effected in essentially the exact same manner whether the directive to change the light was given at a vehicle location or at a controller location fixed near the traffic control indicator.

Petitioner seeks relief by filing a petition July 21, 2011 that is being treated under 37 CFR 1.181 requesting to designate the grounds of rejection set forth in the Answer on Appeal be designated as a new ground of rejection and provide a copy of the citation to the appellant. A Reply Brief was simultaneously filed.

REGULATIONS AND PRACTICE

MPEP 1207.03 New Ground of Rejection in Examiner's Answer states in part, under part III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION<

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

A new prior art reference >applied or< cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).

MPEP 1207.04 Reopening of Prosecution After Appeal states in part:

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

OPINION

A review of the file record shows that the basic thrust of the rejection remains the same and there no new prior art citations.

Accordingly, the petition requesting that ground of rejection set forth in Examiner's Answer on Appeal be designated as a new ground the appellant is **Denied**.

In accordance with MPEP 1208, the application is forwarded to the examiner to consider the reply brief filed July 21, 2011.

Any inquiry regarding this decision should be directed to Wellington Chin, Quality Assurance Specialist, at (571) 272-3134).

John L. LeGuyader, Director
Technology Center 2600
Communications

AVST001 UTL
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Group Art Unit:	**2612**
Alexander I. Poltorak	)	Examiner:	**Brent A. Swarthout**
Serial No.: **10/328,767**	)	Examiner's Answer Mailed On:	
Filed: **December 24, 2002**	)		**8/7/2011**
For: **APPARATUS AND METHOD FOR PROVIDING FOR THE REMOTE CONTROL OF TRAFFIC CONTROL DEVICES ALONG A TRAVEL ROUTE**	)	Confirmation No.:	**9405**

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

PETITION UNDER RULE 1.181(a) FOR DESIGNATION AS NEW GROUND OF REJECTION

Applicant petitions for designation of the section 103 rejections in the Examiner's Answer as containing a new ground of rejection.

Summary

The application is currently under Appeal. The Examiner's Answer acknowledges that one of the references (Brown) does not disclose the limitations for which it was cited in the rejections in the Office action from which the currently pending Appeal was taken. The Examiner's Answer now cites another reference (Matta) as suggesting the same limitations. Although Matta is of record and is one of the references on which the rejection in the Office action was based, it was not relied on for

the point in issue here, which point is central in the pending Appeal. The new rationale in the Examiner's Answer constitutes a new ground of rejection and should have been designates as such.

Facts

The Examiner entered a rejection of claim 1 in a final Office action mailed on January 7, 2010 (the "previous Final Office Action"), as being unpatentable in view of Yee, Morrison, and Matta. According to the previous Final Office Action, the Examiner believed that Matta in fact made obvious "choosing to use vehicle computer to detect traffic signal state . . . ." Previous FOA at 3, fourth paragraph. In response to that rejection, Applicant argued that the distinction between performing the steps in issue here at the vehicle computer and the traffic light is non-trivial and therefore not obvious. Applicant also amended claim 1 as shown in the footnote below,[1] to clarify and emphasize that the vehicle computer is the device configured to detect if the vehicle is

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[1] In the amendment of June 7, 2010, Applicant amended claim 1 thus:

1. (Currently Amended) An apparatus for remotely controlling traffic control devices, the apparatus comprising:

an input device for inputting at least one of a control code and a command code corresponding to a control operation to be performed on a traffic control device;

a processor for processing the at least one of the control code and the command code, wherein the processor generates a first control signal for performing a control operation on the traffic control device;

a transmitter for transmitting the first control signal to the traffic control device, wherein the traffic control device receives the first control signal and generates a second control signal, wherein the second control signal effectuates the control operation; and

a positioning system;

wherein:

the apparatus is a vehicle computer located in a vehicle;

the vehicle computer is configured to detect if the vehicle is approaching the traffic control device in the path of the vehicle, detect state of the traffic control device, and, in response to the state prohibiting travel in a direction of travel of the vehicle, generate the first control signal to effectuate the control operation in response to the state of the traffic control device being such that effectuating the control operation decreases travel delay of the vehicle.

approaching the traffic control device in the path of the vehicle, detect state of the traffic control device, and generate the first control signal in response to the state prohibiting travel in a direction of travel of the vehicle.

The Examiner apparently accepted this argument, because in the next non-final Office Action (mailed on 6/16/2010), the art rejection of claim 1 was based not only on Yee, Morrison, and Matta, but also on Brown. The Office Action of 6/16/2010 stated (on page 4): "Regarding remarks filed with the response on 6-7-10, . . . [¶] . . . it is stated that Matta does not disclose detecting state of the traffic control device. However, Brown teaches detection of traffic control device state, including access code and direction (col. 3, lines 33-35)." It appeared that the Examiner had abandoned the reliance on Matta regarding performance of the function in issue here by the vehicle computer, and relied only on the new reference, Brown.

In a reply filed on 9/15/2010, Applicant explained that Brown in fact does not disclose or suggest the limitations in issue. Applicant did not address Matta because the Examiner no longer contended that Matta suggested the limitations. After the current Final Office Action issued, Applicant argued the same point (regarding Brown) in the Pre-Appeal Brief Request for Review, filed on February 6, 2011. Again, Applicant did not address Matta because it was no longer relevant to the specific limitations in issue. Applicant argued the same point again in the Appeal Brief. Only now, in the Examiner's Answer, Examiner acknowledges that Brown does not disclose or suggest the limitations in issue. But now Applicant is presented with a new rationale for the rejection, once again relying on Matta.

Applicable Law and Rules

The general test for determining whether a rejection is "new" is whether an applicant has had a fair opportunity to react the "basic thrust" of the rejection. *In re Kronig*, 539 F.2d 1300, 1302-03, 190 U.S.P.Q. 425, 426-27 (Fed. Cir. 1976). If the basic thrusts of the two rejections differ, then the applicant would not already have had a fair opportunity to respond to the thrust of the rejection, and the new rejection warrants a further opportunity to respond. *Id.*

Argument

To use a different rationale for the rejection in the Examiner's Answer is fundamentally unfair. Applicant debunked the reliance on Matta in response to the previous Final Office Action. The Examiner accepted Applicant's argument and instead of Matta relied on the new reference, Brown. Applicant argued against Brown on several occasions, unsuccessfully. Now, in the Examiner's Answer, it is finally acknowledged that Brown is unavailing because it does not disclose the limitations in issue; but Applicant is once again confronted with Matta on the same point. It is now a new thrust of argument, a thrust which Applicant could have met in a variety of ways, had he known that the Examiner continued to rely on Matta. Applicant did not know and did not respond.

The Examiner's Answer should have designated the rejection as being based on a new ground and thus allowed an opportunity to amend further, present additional arguments, and/or present evidence. *In re Kronig*, 539 F.2d 1300, 1302-03, 190 U.S.P.Q. 425, 426-27 (Fed. Cir. 1976). A new thrust of a rejection warrants a new opportunity to respond. *In re Kronig, supra.*

Conclusion

For the foregoing reasons, Applicant respectfully requests designation of the rejections in the Examiner's Answer as being based on a new ground.

Respectfully submitted,

Dated: July 21, 2011

/Anatoly S. Weiser/

Anatoly S. Weiser, Reg. No. 43,229
Acuity Law Group
3525 Del Mar Heights Road, #295
San Diego, CA 92130
(858) 720-9431

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6662754
Issue Date: December 16,2003
Application No. 10328784
Filed: December 24,2002
Attorney Docket No. REVDCU-34

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 24,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 24,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6662754	2003-12-16	10328784	2002-12-24	REVDCU-34

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Pattimarie Wilson/	Date (YYYY-MM-DD)	2012-02-22
Name	Pattimarie Wilson		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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J. MICHAEL NEARY
53939 PINE GROVE ROAD
LAPINE OR 97739

MAILED

APR 13 2011

OFFICE OF PETITIONS

In re Patent No. 7,066,050 :
Issue Date: June 27, 2006 :
Application No.: 10/329,105 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No.: IG2254US :

This is a decision on the petition under 37 CFR 1.378(c), filed February 14, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 27, 2010 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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May 11, 2011

Cyrus F. Bharucha
Campbell Stephenson LLP
The Domain, Bld. H, Ste. 250
11401 Century Oaks Terrace
Austin, Texas 78758

In re Application of:
Frank Brunswig et al.
Application No. 10/329303
Filed: December 26, 2002
For: TRANSFORMING PRODUCT DESCRIPTION INFORMATION

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed December 29, 2010 under 37 C.F.R. § 1.181 for entry of a Reply Brief filed October 6, 2010.

The petition is **GRANTED**.

On March 2, 2010, Petitioner filed an Appeal Brief appealing the final rejection of claims 1-10 and 13-21 in an Office Action mailed August 20, 2009. The examiner filed an Examiner's Answer to the Appeal brief on August 5, 2010. In this Answer, the examiner cited two new references Brooks et al. (US 6,993,456) and Hoskins et al. (6,268,853). In a Reply Brief filed noted the new references cited and provided new responses to arguments presented in the Examiner Answer.

MPEP 1208 and 37 CFR 41.41 addresses the requirements of a Reply Brief. As noted in 37 CFR 41.41:

37 CFR 41.41. Reply brief.

(a) (1) Appellant may file a reply brief to an examiner 's answer within two months from the date of the examiner 's answer.

(2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

While the Reply Brief provided new responses to arguments presented in the Examiner's Answer and noted citation of new references provided in the Answer, no new amendment or evidence was included.

For the above stated reasons, the petition to enter the Reply Brief is **GRANTED**. The application is being forwarded to the examiner for action consistent with this decision.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail O. Hayes/

Gail O. Hayes
Special Program Examiner/Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/329,303	12/23/2002	Nardo B. Catahan JR.	OIC0091US	8542

60975 7590 05/17/2011

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

EXAMINER	
CHAVIS, JOHN Q	

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
05/17/2011	PAPER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 11, 2010

TO SPE OF : ART UNIT 1797 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/329,322 Patent No.: 7,637,969 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the reconsideration request to add priority information be approved. See COCIN dated 07-28-2010

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

_____ ____ SPE_/Glenn Caldarola/_____ Art Unit

____1797____

SPE Art Unit

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MAY 09 2011

OFFICE OF PETITIONS

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

In re Patent of Izumi et al. :
Patent No.6,649,438 :
Issue Date: November 18, 2003 : Decision on Petition
Application No. 10/329,491 :
Filing Date: December 27, 2002 :
Attorney Docket No. 1035-419 :

This is a decision on the "Petition Under 37 C.F.R. §1.183" filed March 3, 2011, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.[1]

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) states,

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The required processing fee of $130 for the instant request was submitted on March 3, 2011. The papers filed March 3, 2011, include evidence establishing an assignment to the assignees identified in the certificate of correction was recorded prior to issuance of the patent. The papers filed March 3, 2011, include a request for a certificate of correction under 37 CFR 1.323 and the required fee of $100 for the certificate of correction has been charged to Deposit Account No. 14-1149 per the general fee authorization in the request for the certificate of correction.

In view of the prior discussion, the Office has determined relief is appropriate under 37 CFR 3.81(b).

[1] Due to changes to 37 CFR 3.81(b), which became effective June 25, 2004, a petition 37 CFR 1.183 is longer necessary in order to add or correct assignee information on a patent.

The Certificates of Correction Branch will be informed of the instant decision and the requested certificate of correction will be issued in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MOMENTIVE PERFORMANCE MATERIALS INC.-Quartz
c/o DILWORTH & BARRESE, LLP
1000 Woodbury Road
Suite 405
Woodbury, NY 11797

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Mark Phillip D'Evelyn, et. al. :
Application No. 10/329,982 : DECISION ON PETITION
Filed: December 27, 2002 :
Attorney Docket No. RD29634-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2011, to revive the above-identified application.

The application became abandoned for failure to timely file a proper reply to the final Office action mailed January 22, 2009. A Notice of Abandonment was mailed on July 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with the $540 fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the $540 fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

It is noted that petitioner filed for an extension of time under 37 CFR 1.136 with the present petition. However, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $1,110 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since the address given in the present petition differs from the correspondence address of record, a courtesy copy of this decision is being mailed to the address in the present petition. Thereafter, all future correspondence regarding this application will be mailed solely to the address of record until otherwise instructed.

This application is being referred to Technology Center Art Unit 2812 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the above application.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: MOMENTIVE PERFORMANCE MATERIALS INC.
C/O MCDONALD HOPKINS LLC
600 SUPERIOR AVENUE, EAST, SUITE 2100
CLEVELAND, OH 44114-2653

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
David Houze :
Application No. 10/330,279 : ON APPLICATION FOR
Filed: 12/30/2002 : PATENT TERM ADJUSTMENT
Attorney Docket No. 041457-0668 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed October 11, 2010, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1439 days, not 1119 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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AUG 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,456,159	:	DECISION ON REQUEST
Houze et al.	:	FOR
Issue Date: November 25, 2008	:	RECONSIDERATION OF
Application No. 10/330,281	:	PATENT TERM ADJUSTMENT
Filed: December 30, 2002	:	and
Atty Docket No. 041457-0669	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred eighty-two **(682)** days. This petition was recently forwarded to the undersigned for consideration.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **five hundred eighty-eight (588)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 31, 2005 and ends on November 13, 2006, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 318 not 319 days.

In addition, patentee's calculation does not consider the reduction of 118 days entered pursuant to 37 CFR 1.704(c)(10). A review of the application history reveals that entry of a

period of reduction, pursuant to this section, for the filing of papers on July 31, 2008 is warranted. However, the period of reduction is corrected from 118 days to 93 days (beginning on July 31, 2008 and ending on October 31, 2008, the date of mailing of a corrected filing receipt in response).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. § 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. § 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred eighty-eight **(588)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,456,159 B2

DATED : **November 25, 2008** **DRAFT**

INVENTOR(S) : Houze et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby
corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 245 days

Delete the phrase "by 245 days" and insert – by 588 days--

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SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of :
Houze :
Application No. 10/330,360 : ON APPLICATION FOR
Filed: December 30, 2002 : PATENT TERM ADJUSTMENT
Docket No. 041457-0667 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed October 11, 2010. Applicant submits that the patent term adjustment to be indicated on the patent is one thousand four hundred forty (1440) days, not one thousand one hundred eighty-one (1181) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicant discloses that the Office failed to consider an instance of applicant delay, based on 37 CFR 1.704(b), for the Request for Continued Examination (RCE), filed on November 16, 2006.

To the extent that applicant requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under

§ 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that applicant otherwise requests correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time

---

[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

of the mailing of the notice of allowance is **one thousand one hundred twenty (1120) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 3, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1181 days.

Applicant discloses that the PAIR calculations for the application do not take into account an instance of additional delay of 61 days based on 37 CFR 1.704(b), which provides, in pertinent part, that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Specifically, in response to the June 16, 2006 final Office action, applicant filed a RCE on November 16, 2006. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 61 days for applicant delay for the period beginning on September 17, 2006, the day after the date that is three months after the mailing date of the June 16, 2006 final Office action, and ending on November 16, 2006, the date the reply in compliance with §1.113(c) was filed. A 61 day reduction is being entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is **one thousand one hundred twenty (1120) days** -- 1272 days of Office delay minus 152 days of Applicant delay.

The $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b) will be charged to deposit account no. 19-0741. This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

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10/330,360 ENHANCED DRUG DELIVERY IN TRANSDERMAL SYSTEMS

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Published Documents | Address & Attorney/Agent

Patent Term Adjustment

Filing or 371(c) Date:	12-30-2002	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	1272
A Delays:	487	PTO Manual Adjustments:	-61
B Delays:	0	Applicant Delays:	91
C Delays:	785	Total PTA Adjustments:	1120

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
103	12-14-2010	Adjustment of PTA Calculation by PTO		61	0
96	09-03-2010	Mail Notice of Allowance			0
95	09-02-2010	Issue Revision Completed			0
94	09-02-2010	Document Verification			0
93	09-02-2010	Notice of Allowance Data Verification Completed			0
92	09-02-2010	Case Docketed to Examiner in GAU			0
91	08-30-2010	Notice of Allowability			0
90	08-13-2010	Information Disclosure Statement considered			0
89	08-13-2010	Reference capture on IDS			0
88	08-13-2010	Information Disclosure Statement (IDS) Filed			0
87	08-13-2010	Request for Continued Examination (RCE)			0
86	08-19-2010	Disposal for a RCE / CPA / R129			0
85	08-13-2010	Information Disclosure Statement (IDS) Filed			0
84	08-13-2010	Workflow - Request for RCE - Begin			0
83	07-23-2010	Export to Initial Data Capture			0
82	07-13-2010	Mail Notice of Allowance			0
81	07-12-2010	Notice of Allowance Data Verification Completed			0
80	07-12-2010	Notice of Allowability			0
79	03-30-2010	Mail BOA miscellaneous communication to applicant			0
78	03-29-2010	BOA miscellaneous communication to applicant			0

77	03-16-2010	Mail BPAI Decision on Appeal - Reversed	785		53
76	03-16-2010	BPAI Decision - Examiner Reversed			0
75	02-02-2010	Confirmation of Hearing by Appellant			0
74	01-13-2010	Notification of Appeal Hearing			0
73	10-06-2009	Case Docketed to Examiner in GAU			0
70	04-27-2009	Docketing Notice Mailed to Appellant			0
69	04-25-2009	Assignment of Appeal Number			0
68	04-14-2009	Mail Miscellaneous Communication to Applicant			0
67	04-13-2009	Miscellaneous Communication to Applicant - No Action Count			0
66	12-15-2008	Request for Oral Hearing			0
65	12-15-2008	Miscellaneous Incoming Letter			0
64	01-21-2009	Appeal Awaiting BPAI Docketing			0
63	01-14-2009	Appeal ready for BPAI review			0
62	10-23-2008	Exam. Ans. Review Complete			0
61	10-16-2008	Mail Examiner's Answer			53
60	10-14-2008	Examiner's Answer to Appeal Brief			0
59	08-01-2008	Appeal Brief Review Complete			0
58	08-01-2008	Date Forwarded to Examiner			0
57	07-22-2008	Appeal Brief Filed			0
56	07-22-2008	Request for Extension of Time - Granted			0
55	05-06-2008	Mail Advisory Action (PTOL - 303)			0
54	05-06-2008	Advisory Action (PTOL-303)			0
53	01-22-2008	Notice of Appeal Filed		91	48
52	01-22-2008	Request for Extension of Time - Granted			0
51	01-03-2008	Date Forwarded to Examiner			0
50	12-19-2007	Amendment after Final Rejection			0
49	12-19-2007	Request for Extension of Time - Granted			0
48	07-23-2007	Mail Final Rejection (PTOL - 326)			0
47	07-19-2007	Final Rejection			0
46	11-16-2006	Information Disclosure Statement considered			0
45	05-03-2007	Information Disclosure Statement considered			0

44	09-29-2005	Information Disclosure Statement considered		0
43	09-29-2005	Information Disclosure Statement (IDS) Filed		0
40	05-21-2007	Date Forwarded to Examiner		0
39	05-03-2007	Response after Non-Final Action		0
38	05-03-2007	Reference capture on IDS		0
37	05-03-2007	Information Disclosure Statement (IDS) Filed		0
36	05-03-2007	Information Disclosure Statement (IDS) Filed		0
35	02-08-2007	Mail Non-Final Rejection		0
34	02-05-2007	Non-Final Rejection		0
33	11-16-2006	Information Disclosure Statement considered		0
32	11-16-2006	Reference capture on IDS		0
31.7	11-16-2006	Information Disclosure Statement (IDS) Filed		0
31	11-16-2006	Information Disclosure Statement (IDS) Filed		0
30	11-22-2006	Date Forwarded to Examiner		0
29	11-16-2006	Amendment Submitted/Entered with Filing of CPA/RCE		0
28	11-22-2006	Date Forwarded to Examiner		0
27	11-16-2005	Request for Continued Examination (RCE)		0
26	11-22-2006	Disposal for a RCE / CPA / R129		0
25	11-16-2005	Request for Extension of Time - Granted		0
24	11-16-2006	Workflow - Request for RCE - Begin		0
23	06-16-2006	Mail Final Rejection (PTOL - 326)		0
22	06-12-2006	Final Rejection		0
21	03-29-2006	Date Forwarded to Examiner		0
20	03-23-2006	Response after Non-Final Action		0
19	12-30-2005	Mail Non-Final Rejection		0
18	12-27-2005	Non-Final Rejection		0
17	12-30-2002	Information Disclosure Statement considered		0
16	10-11-2005	Date Forwarded to Examiner		0
15	09-29-2005	Response to Election / Restriction Filed		0
14	09-29-2005	Request for Extension of Time - Granted		0
13	06-30-2005	Mail Restriction Requirement	487	-1

12	06-27-2005	Requirement for Restriction / Election	0
11	10-24-2003	IFW TSS Processing by Tech Center Complete	0
10	04-30-2003	Preliminary Amendment	0
9	05-23-2003	Case Docketed to Examiner in GAU	0
8.7	12-30-2002	Information Disclosure Statement (IDS) Filed	0
8	12-30-2002	Information Disclosure Statement (IDS) Filed	0
7	12-30-2002	Preliminary Amendment	0
6	04-10-2003	Application Dispatched from OIPE	0
5	04-09-2003	Application Is Now Complete	0
4	03-31-2003	Cleared by L&R (LARS)	0
3	01-27-2003	IFW Scan & PACR Auto Security Review	0
2	01-10-2003	IFW Scan & PACR Auto Security Review	0
1	12-30-2002	Initial Exam Team nn	0

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
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WASHINGTON DC 20007

In re Patent of Houze	:	DECISION ON REQUEST
Patent No. 7,879,831	:	FOR
Issue Date: February 1, 2011	:	RECONSIDERATION OF
Application No. 10/330,360	:	PATENT TERM ADJUSTMENT
Filed: December 30, 2002	:	and
Atty Docket No. 041457-0667	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 11, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred forty (1440) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred forty (1440) days is **GRANTED**.

Patentees assert the total period of adjustment is 1440 days, which is the sum of 487 days of A delay and 320 days of B delay and 785 days of C delay, reduced by 152 days of Applicant delay.

The Office concurs.

The period of B delay is 320 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was filed November 16, 2006. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The period of B Delay in this case is 320 days, which is the number of days beginning on December 31, 2005, the day after the date three years after the application's filing date, and ending on November 15, 2006, the day before the date

the RCE was filed. It is noted there was a 785 day successful appellate period beginning January 22, 2008, when a Notice of Appeal was filed, and ending on March 16, 2010, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner. As this period occurred after the filing of the RCE on November 16, 2006, it has already been excluded from the B Delay period. Excluding it again would be redundant.

The patent term adjustment is one thousand four hundred forty (1440) days, which is the sum of 487 days of A delay and 320 days of B delay and 785 days of C delay, reduced by 152 days of Applicant delay.

Pursuant to patentee's authorization, deposit account no. 19-0741 will be charged the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of a petition under 37 CFR 1.705(d). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred forty (1440)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney.
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,879,831 B2

DATED : **February 1, 2011** **DRAFT**

INVENTOR(S) : Houze

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1120 days

Delete the phrase "by 1120 days" and insert – by 1440 days--

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In re Application of :
DAVID HOUZE :
Application No. 10/330,361 :
Filed: 12/30/2002 :
Atty Docket No. 041457-0666 :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705", filed October 11, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1988 days, not 996 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, it appears that applicants are seeking a period of adjustment of 4 days for Office delay pursuant to 37 CFR 1.702(a)(2).

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The

computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

To the extent that applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **DISMISSED**.

It appears that applicants are asserting that they are entitled to 4 days of Office delay pursuant to 37 CFR 1.702(a)(2).

Pursuant to 37 CFR 1.702(a),

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

On June 2, 2006, the examiner responded to applicants' reply to the Restriction Requirement filed on March 13, 2006. The Office action of June 2, 2006, met the minimum requirements of an action under 35 U.S.C. 132 and was mailed within four months of the March 13, 2006 filing date of the reply. Accordingly, no period of adjustment for Office delay was entered. A review of the record confirms that no period of adjustment for Office delay is warranted.

The subsequent mailing of the Restriction Requirement by the examiner on July 17, 2006, does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(2) on June 2, 2006. Specifically, the Office notes that an examiner does not have the authority to vacate or rescind an Office action. Unless vacated by the Technology Center Director, the action originally mailed by the examiner on June 2, 2006, will be used for purposes of calculating patent term adjustment.

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PERKINS COIE LLP
PATENT-SEA
PO BOX 1247
SEATTLE WA 98111-1247

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AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Jacob Leon Guedalia	:	
Application No. 10/330,466	:	ON REQUEST FOR
Filed: December 24, 2002	:	RECONSIDERATION OF
Attorney Docket Number: 320528405US1	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 13, 2010. Applicants believe that they should be accorded an additional PTA of 767 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Applicant points out that they should have been assessed additional delay of 41 days pursuant to 37 CFR 1.704(b). A review of the file reveals that the Office mailed a non-final Office action on September 12, 2008. Applicants timely filed a reply on November 20, 2008. However, the reply was not proper, and on December 22, 2008, the Office mailed a Notice of Non-Compliant Amendment. Applicants replied to this Notice on January 22, 2009, and pursuant to 37 CFR 1.704(c)(7), were properly accorded applicant delay of 63 days. As such, applicants need not be accorded additional delay of 41 days.

In view thereof, the correct determination of PTA prior to issuance is **one thousand five hundred ninety-nine (1599) days** (1662 days of PTO delay, reduced by 63 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Nesbitt :
Application No. 10/330,551 : ON APPLICATION FOR
Filed: December 30, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. **10587.0270-00000** :
:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed June 22, 2010, which is properly treated under 37 CFR 1.7054(b). Applicants submits that the patent term adjustment to be indicated on the patent is one thousand, seventy-six (1,076) days, not one thousand, one hundred and fifteen (1,115) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for reconsideration of patent term adjustment is DISMISSED.

On March 23, 2010, a "Determination of Patent Term Adjustment under 35 U.S.C. 154(b)" was mailed indicating that the initial patent term adjustment is 1,115 days. The instant petition under 37 CFR 1.705(b) was filed on June 22, 2010—on the same day that issue fee was paid. Petitioner asserts that the initial patent term adjustment is 1,076, but does not offer an explanation for the discrepancy between the Office's calculation and petitioner's calculation.

A review of the file history reveals that a period of adjustment of 39 days to the patent term was entered pursuant 37 CFR 1.703(a)(4) for the failure of the Office to respond to an appeal brief in compliance with 37 CFR 41.37 within four months after the appeal brief was filed. An appeal brief in compliance with 37 CFR 41.37 was filed March 8, 2006; the examiner's answer was not mailed until August 16, 2006, four months and 39 days

after the appeal brief was filed. Accordingly, it was appropriate to enter an adjustment to the patent term of 39 days.

By omitting this 39 day period of adjustment from applicant's calculation, it is unclear whether applicant is asserting that the 39 days period of adjustment was entered in error or whether the 39 days period overlaps the "B" delay period and should therefore not be considered in the patent term adjustment calculation. As discussed previously, entry of the 39 days of adjustment is proper. Further, any period of overlap of the "A" delay and the "B" delay and/or the "A" delay and the "C" delay cannot be determined until after the patent issues and such will be provided for in the revised patent term adjustment. Accordingly, any argument asserting that the 39 days of "A" delay overlaps the "B" delay is premature.

It is noted that applicant has not presented any other issue that would be properly treated under 37 CFR 1.705(b).

In view thereof, the petition is DISMISSED.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded[1]).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned, at (571) 272-3222.

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[1] See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR ' 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Patent No. : 7400722
Serial No. : 10/330694
Inventor(s) : QI et al.
Issued : 07/15/2008
Title : METHODS AND APPARATUS FOR PERFORMING HASH OPERATIONS IN A CRYPTOGRAPHY ACCELERATOR
Docket No. : 2875.0350001

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error in the inventor's name since inventor's name (s) are printed solely in accordance with the Typewritten name (s), and since the error was the result of applicant's failure to comply With the requirement that the complete and correct name (s) be indicated on the Declaration or Oath, no correction is in order here under provisions of Rules 1.322, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX

By Mail: Commissioner of Patent and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (571) 272-3218
ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted. The patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 10/08/2010

Address: Robert Sokohl
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

ts/md

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FISH & RICHARDSON P.C. (NY)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,693,189 :
Issued: April 6, 2010 :
Application No.: 10/330,703 : NOTICE
Filed: December 27, 2002 :
Attorney Docket No: **28696-0005001** :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
One Financial Center
BOSTON MA 02111

In re Patent No. 6,911,546 :
Issued: June 28, 2005 :
Application No. 10/330,853 : ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. ARC920020055US1 :

This is a decision on the petition filed August 20 ,2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the correct assignees' names are "International Business Machines Corporation" and "Stanford University" and that an incomplete assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests a certificate of correction in the names of "International Business Machines Corporation, Armonk, NY" and "The Board of Trustees of the Leland Stanford Junior University, Palo Alto, CA."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01.

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

A review of Office database assignment records reflects that an assignment in the names of "International Business Machines Corporation, Armonk, NY" and "**Leland Stanford Junior University**, Palo Alto, CA" has been recorded. Therefore, upon submission of the required corrected certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that "International Business Machines Corporation" and "Leland Stanford Junior University" were the assignees of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

Patentees are reminded that no certificate of correction will be issued which sets forth an assignee other than the assignee as explicitly set forth in the recorded assignment.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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IBM ARC (Bozicevic, Field & Francis LLP)
1900 University Avenue
Suite 200
East Palo Alto CA 94303

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,911,546 :
Issued: June 28, 2005 :
Application No. 10/330,853 : DECISION ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. ARC920020055US1 :

This is a decision on the petition, filed, April 1, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of :
Sam Shiaw-Shiang Jiang :
Application No. 10/330,879 : NOTICE
Filed: December 27, 2002 :
Attorney Docket No. ASTP0245USA :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **KLEIN, O'NEIL & SINGH, LLP**
18200 VON KARMAN AVENUE, SUITE 725
IRVINE, CA 92612

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Paper No.

DAVID L. PARKER
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE, SUITE 2400
AUSTIN TX 78701

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AUG 12 2010

OFFICE OF PETITIONS

In re Patent No. 7678549	:	DECISION ON REQUEST
Iain Buxton	:	FOR
Issue Date: 03/16/2010	:	RECONSIDERATION OF
Application No. 10/331375	:	PATENT TERM ADJUSTMENT
Filed: 12/30/2002	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
D6426	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by two thousand forty-nine (2049) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand nine hundred twenty-six (1926) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand nine hundred twenty-six (1926) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on December 31, 2005, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on March 16, 2010, the date the application issued as a patent, or 1537 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b).

See 35 U.S.C. 154(b)(1)(B)(ii). On September 11, 2006, a notice of appeal was filed. On April 16, 2007, 218 days after the date the notice of appeal was filed, a non-final Office action was mailed. On January 16, 2008, a notice of appeal was filed. On August 26, 2009, 589 days after the notice of appeal was filed, a decision of the Board of Patent Appeals and Interferences (BPAI) was mailed. Accordingly, the excluded period for appeal is 807 (218 + 589) days, and the "B" delay period is 730 (1537 - 807) days.

The period of adjustment under 37 CFR 1.702(e) for successful appellate review is the period from January 16, 2008, the date a notice of appeal was filed, until August 26, 2009, the date the BPAI decision was mailed affirming-in-part the examiner, or 589 days.

The patent term adjustment at the time of issuance of the patent is 1926 (698 days of Office delay + 730 days of over three years delay + 589 days of successful appellate review - 91 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand nine hundred twenty-six **(1926)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,678,549 B2

DATED : **Mar. 16, 2010** **DRAFT**

INVENTOR(S) : Buxton

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1767 days.

Delete the phrase "by 1767 days" and insert – by 1926 days--

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MAYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.C. BOX 398
AUSTIN TX 78767-0398

In re Application of	:	
Klaus Rock, et al.	:	
Application No. 10/331,387	:	DECISION GRANTING PETITION
Filed: December 30, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6359-01200	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 30, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 29,, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2447 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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BANNER & WITCOFF, LTD.
28 STATE STREET
SUITE 1800
BOSTON MA 02109-1701

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Dale G. Brown, et al. :
Application No. 10/331,800 : DECISION ON PETITION
Filed: December 30, 2002 : TO WITHDRAW
Attorney Docket No. 005369.00026 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed.

Petitioner should also note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

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JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Dale G. Brown, et al. :
Application No. 10/331,800 : DECISION ON PETITION
Filed: December 30, 2002 : TO WITHDRAW
Attorney Docket No. 005369.00026 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed.

Petitioner should also note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10331800
Filing Date	30-Dec-2002
First Named Inventor	Dale Brown
Art Unit	1618
Examiner Name	MICAH PAUL YOUNG
Attorney Docket Number	005369.00026
Title	Coated micromesh dental devices overcoated with imbedded particulate

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22910

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 14468

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Ernest V. Linek/
Name	Ernest V. Linek
Registration Number	29822

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : May 19,2011

In re Application of :

Dale Brown

Application No : 10331800

Filed : 30-Dec-2002

Attorney Docket No : 005369.00026

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed May 19,2011

The request is **APPROVED**

The request was signed by Ernest V. Linek (registration no. 29822) on behalf of all attorneys/agents associated with Customer Number 22910 . All attorneys/agents associated with Customer Number 22910 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 14468 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

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BANNER & WITCOFF, LTD.
28 STATE STREET
SUITE 1800
BOSTON, MA 02109-1701

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MAY 17 2011

OFFICE OF PETITIONS

In re Application of

Dale G. Brown, et al.
Application No. 10/331,800
Filed: December 30, 2002
Attorney Docket No. 005369.00026

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed.

Petitioner should also note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The power of attorney March 31, 2003 does not include a proper statement under 37 CFR 3.73(b).

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: DALE BROWN
WHITEHILL ORAL TECHNOLOGIES, INC.
12701 EXECUTIVE DRIVE
SUITE 614
STAFFORD, TX 77477

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED
APR 04 2012
OFFICE OF PETITIONS

In Re application of
Evren Eryurek et al.
Application No. 10/331,974
Filed: December 30, 2002
Attorney Docket No. 30203/38240

ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed January 26, 2012 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the PTO-1449 Information Disclosure Statement By Applicant, posted in the file on April 18, 2007, be expunged from the record. Petitioner states that the IDS is for another application

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended for an unrelated application.

The expunged material has been removed from the official file.

In accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application. Therefore, the petition fee is refunded.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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DEC 14 2011

OFFICE OF PETITIONS

In re Application of :
Juntti et al. :
Application No. 10/332,040 :
Filed: May 7, 2003 :
Attorney Dkt. No. 088245-0895 :
For: RECEIVER AND METHOD OF :
RECEIVING A CDMA SIGNAL IN :
PRESENCE OF INTERFERENCES WITH :
UNKNOWN SPREADING FACTORS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed December 7, 2011. Applicants request that the determination of patent term adjustment be corrected from one thousand two hundred twenty-six (1,226) days to two thousand sixty-six (2,066) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Charlema Grant
Attorney Advisor
Office of Petitions

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COZEN O'CONNOR
277 PARK AVENUE, 20TH FLOOR
NEW YORK NY 10172

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,375,377 :
Issue Date : May 20, 2008 :
Application No. 10/332,244 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 5367-2PUS :

This is a decision on the petition filed February 1, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: THOMAS LANGER
551 FIFTH AVENUE, SUITE 1210
NEW YORK, NY 10176

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Paper No.

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY
DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Olsen et al. :
Application No. 10/332,541 : ON APPLICATION FOR
Filed: May 14, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 6247.204-US :

This is in response to the " PETITION APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed September 28, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is six hundred eighteen (618) days, not threet hundred nine (309) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

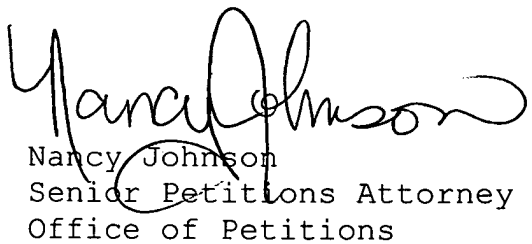
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or nctice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Jacques Benveniste, et al. :
Application No. 10/332,609 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. D49.12-0001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 3, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 4, 2009.

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

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

Therefore, as the petition is not signed by a practitioner of record, the inventor(s) or an assignee of the entire interest and complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

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DEC 07 2010
OFFICE OF PETITIONS

In re Application of :
Jacques Benveniste, et al. :
Application No. 10/332,609 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. D49.12-0001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 3, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 4, 2009.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on August 5, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received October 6, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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Yancy IP Law, PLLC
5904 Jane Way
Alexandria VA 22310

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Thomas Julius Borody :
Application No. 10/332,986 : DECISION ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. **91101** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 28, 2009 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to non-final office action, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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JAN 10 2011

OFFICE OF PETITIONS

Samuel J. Haidle
Howard & Howard Attorneys PLLC
450 West Fourth Street
Royal Oak, MI 48067

In re Patent of Fristedt et al.	:	
Patent No. 7,134,715	:	
Issue Date: November 14, 2006	:	Letter
Application No. 10/333,427	:	
Filing Date: June 30, 2003	:	
Attorney Docket No. 065509.00020	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 13, 2010.

The deficiency payment of $5,119 is hereby accepted.

The change of status to large entity has been entered and made of record.

-The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Although this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the current address of record absent receipt of appropriate instructions to the contrary.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Merck & Company Inc
126 East Lincoln Avenue
Rahway NJ 07065

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OCT 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,091,209
Issue Date: August 15, 2006
Application No. 10/333,431
Filed: July 9, 2003
Attorney Docket No. ITT0012

DECISION ON PETITION

This is a decision on the Request To Correct Assignee Under 37 CFR §3.81(b) and Request For Certificate Of Correction Of Patent For Applicants' Mistake Under 37 CFR §1.323, filed September 13, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name and residence. The Requests are being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name and residence on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Merck & Co., Inc., Rahway, NJ"

to:

--Istituto di Ricerche di Biologia Molecolare P. Angeletti S.P.A., Pomezia (Rome), Italy--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), has been submitted. However, the $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,091,209.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7150595
Issue Date: December 19,2006
Application No. 10333527
Filed: May 21,2003
Attorney Docket No. 101194-63

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 14,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 14,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7150595	2006-12-19	10333527	2003-05-21	SIMP-51033US0

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Larry E. Vierra/	Date (YYYY-MM-DD)	2011-07-19
Name	Larry E. Vierra	Registration Number	33809

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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FLYNN THIEL
BOUTELL & TANIS
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re
Patent No. 7,121,285
Issued: October 17, 2006
Application No. 10/333,544
Filed: November 18, 2003

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 4, 2010.

The fee deficiency submission under 37 CFR 1.28 of $490 for the four year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
555 W. FIFTH STREET, SUITE 4600
LOS ANGELES CA 90013-1025

MAILED

APR 19 2011

OFFICE OF PETITIONS

In re Application of :
GAO, Hanzhong :
Application No. 10/333,597 : DECISION ON PETITION
Filed: January 21, 2003 : TO WITHDRAW
Attorney Docket No. **427655-100002-US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 08, 2011.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **JONES DAY**
555 SOUTH FLOWER STREET
FIFTIETH FLOOR
LOS ANGELES CA 90071

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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JONES DAY
555 W. FIFTH STREET, SUITE 4600
LOS ANGELES CA 90013-1025

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :

Gao, Hanzhong :
Application No. 10/333,597 : DECISION ON PETITION
Filed: January 21, 2003 : TO WITHDRAW
Attorney Docket No. **427655-100002-US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 07, 2011.

The request is **APPROVED**.

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

The request was signed by Brend Sokol on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Hanzhong Gao at the address indicated below.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **HANZHONG GAO**
RM 2302, NUM. 30, LANE 388, FURONGJANG ROAD
CHANGNING DISTRICT
SHANGHAI CHINA 200051

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HANZHONG GAO
RM 2302, NUM. 30, LANE 388, FURONGJANG ROAD
CHANGNING DISTRICT
SHANGHAI 20005-1 CN CHINA

MAILED
SEP 01 2011
OFFICE OF PETITIONS

In re Application of

Gao :

Application No. 10/333,597 : DECISION ON PETITION

Filed: January 21, 2001 :

Attorney Docket No. **427655-100002-US**

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 21, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on April 22, 2010. A Notice of Abandonment was mailed August 31, 2010.

The amendment filed April 7, 2011, is noted.

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 2400, GAU 2442 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Brent D. Sokol
555 South Flower Street
50th Floor
Los Angeles, CA 90071-2300

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/333,744	01/29/2003	Junji Harada	030087	9259

23850 7590 02/18/2011

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON, DC 20005

EXAMINER	
THOMPSON, CAMIE S	
ART UNIT	PAPER NUMBER
1786	
MAIL DATE	DELIVERY MODE
02/18/2011	PAPER

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

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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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wk

2/18/2011

Mailed:

In re application of : DECISION ON
Junji et al. : PETITION
Serial No. 10/333,744 :
Filed: January 29, 2003 :
For: Total Heat Exchanging Element Paper

This is a response to Applicants Petition filed on January 5, 2011 requesting that the Office Acton dated September 8, 2010 be withdrawn and the application remanded to the Examiner for appropriate action under 37 C.F.R. 41.39.

A Final Office Action was mailed on December 10, 2009. There were three grounds of rejections that included (1) rejection of claims 1, 5, 7, 13, 17, 19 and 37 under 35 USC 102(b) over Okamoto; (2) rejection of claims 1, 3, 5, 7, 13, 15, 17, 19 and 37 under 35 USC 103(a) over Okamoto and (3) rejection of claims 9, 11, 21 and 23 under 36 USC 103(a) over Okamoto and Asai.

Applicant filed an Appeal Brief on June 16, 2010 addressing grounds of rejection 1, 2, and 3. On September 8, 2010, a Non-Final Office Action was issued. The rejection under 35 USC 102(b) was withdrawn. The finality of the previous Office Action was also withdrawn. The rejection of claims 1, 3, 5, 7, 13, 15, 17, 19 and 37 under 35 USC 103(a) over Okamoto and the rejection of claims 9, 11, 21 and 23 under 36 USC 103(a) over Okamoto and Asai was maintained.

After an appeal brief under 37 CFR 41.37 has been filed and the examiner has considered the issues on appeal, the examiner may:

A) reopen prosecution to enter a new ground of rejection with approval from the supervisory patent examiner (see MPEP § 1207.04);

B) withdraw the final rejection and allow the application if the examiner determines that the rejections have been overcome and no new ground of rejection is appropriate; or

C) maintain the appeal by conducting an appeal conference (MPEP § 1207.01) and draft an examiner's answer (MPEP § 1207.02). Any examiner's answer mailed on or after September 13, 2004 may include a new ground of rejection (MPEP § 1207.03).

The Office Action of September 8, 2010 does not state that there is a new ground of rejection. The text of the body of the rejection in the action of September 8, 2010 is modified somewhat from that of the Office Action of December 10, 2009 and there is a Response to Arguments however there is no citation of a new reference or a new ground of rejection.

DECISION

The Petition is **GRANTED**.

The Office Action of September 8, 2010 appears to be an improper reopening of prosecution after filing of an Appeal Brief. The Examiner is directed to withdraw the Office Action of September 8, 2010. Upon withdrawal of this action, the application should be remanded to the Examiner for proper action in accordance with 37 CFR 41.39 and MPEP 1207.

/SHARON GIBSON/
Sharon A. Gibson, Director
Technology Center 1700
Chemical and Materials Engineering

Daniel A. Geselowitz, Ph.D.
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON DC 20005

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LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

MAILED

FEB 28 2012

OFFICE OF PETITIONS

In re Patent No. 7,168,120 :
Issue Date: 30 January, 2007 :
Application No. 10/333,795 : DECISION
Filed: 24 January, 2003 :
Attorney Docket No. 402465/WEINSTEIN

This is a decision on the petition filed on 29 December, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

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

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

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

Patent No. 7,168,120
Application No. 10/333,795

The instant application is released to the IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN, CT 06840

Mail Date: 10/08/2010

Applicant	: Ajith Prasad	: DECISION ON REQUEST FOR
Patent Number	: 7668948	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/334,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2048** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6934788
Issue Date: August 23,2005
Application No. 10334282
Filed: December 31,2002
Attorney Docket No. 42P12212C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6934788	2005-08-23	10334282	2002-12-31	522.1127/HJS

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-13
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/02/10

TO SPE OF : ART UNIT 2472

SUBJECT : Request for Certificate of Correction for Appl. No.: 10334439 Patent No.: 7369567

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 2471
SPE **Art Unit**

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6876695	2005-04-05	10334529	2002-12-31	P8285CXC

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
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Small Entity

	Fee	Code
○	3 ½ year	(2551)
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○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-12
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 6876695
Issue Date: April 5,2005
Application No. 10334529
Filed: December 31,2002
Attorney Docket No. P8285CXC

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**BLAKELY SOKOLOFF TAYLOR &
ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040**

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of :
Hyoung-Nam KIM, et al :
Application No. 10/334,578 : NOTICE
Filed: December 31, 2002 :
Attorney Docket No. 51876P323 :

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED.**

The fee deficiency cannot be accepted because a proper itemization has not been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The deficiency payment submitted July 23, 2010, is acknowledged, however, does not include a proper itemization of the three and one half year maintenance fee, as indicated above.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED

MAR 16 2012

OFFICE OF PETITIONS

In re Application of :
Peterka et al. :
Application No. 10/334,606 : ON PETITION
Filed: December 30, 2002 :
Attorney Docket No. D02990 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action, mailed April 11, 2011, which set an extendable three month period for reply. Applicants submitted an amendment after final and obtained a three month extension of time under the provisions of 37 CFR 1.136(a) on October 11, 2011. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the October 24, 2011 Advisory action. Accordingly, this application became abandoned on October 12, 2011. A Notice of Abandonment was mailed on January 5, 2012.

Applicants have submitted a RCE and required $930.00 fee and an amendment as the submission in reply to the April 11, 2011 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 11, 2011 final Office action, and the $1,860.00 petition fee.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 2436 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: SUSAN R. PAYNE
6450 SEQUENCE DRIVE
SAN DIEGO CA 92121

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/334,825	12/29/2002	Christophe Bonnery	TI-30932	4504

23494 7590 08/13/2010

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

EXAMINER	
LE, BRIAN Q	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
08/13/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com

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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MAIL

AUG 13 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of:
BONNERY, CHRISTOPHE, et al.
Application Serial No.: 10/334,825
Filed: December 29, 2002

For: **METHOD OF COMPRESSION OF VIDEO TELEPHONY IMAGES**

: DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

: DECISION ON PETITION TO REINSTATE APPEAL

This is a decision on the petitions filed September 22, 2009 under 37 C.F.R. §1.144 to withdraw an outstanding restriction requirement and to reinstate appeal respectively.

The petition to withdraw restriction requirement is **GRANTED**. The petition to reinstate appeal is **DISMISSED**.

The restriction requirement February 12, 2007 was effectively withdrawn by the issuance of a rejection of claims 64-92. Therefor, the restriction requirement is vacated. Claims 64-92 are re-joined with the elected claims. However, there is no indication that the examiner treated claims 64-92 vis-a-vis other applicable statute(s), e.g. 35 USC 102, 103, 112, etc.

Insofar as claims 64-92 have not been fully treated on the merits, the appeal cannot be reinstated as these claims are not in condition for appeal.

Consequently, the application file is being returned to the Examiner for full treatment of the previously non-elected claims 64-92 (along with the elected claims) on the merits.

The non-final Office action mailed September 18, 2009 is **VACATED**.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
Christophe Bonnery et al.. :
Application No. 10/334,825 : DECISION ON PETITION
Filed: December 29, 2002 :
Attorney Docket No. TI-30932 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 22, 2010. A Notice of Abandonment was mailed on April 21, 2011

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received June 8, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KAREN ANN ENGLAND
39 GALVEZ COURT
PENSACOLA BEACH, FL 32561

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Patent No. 6,941,581 :
Issue Date: September 13, 2005 :
Application No. 10/334,965 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 220313 :

This is a decision on the petition under 37 CFR 1.378(c), filed October 12, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

This patent expired on September 13, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

This petition was signed by joint inventor Karen England. Communications received at the USPTO must be signed by all of the inventors. 37 CFR 1.33(b) states:

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Karen England
125 N. Theard St.
Covington, LA 70433

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KAREN ANN ENGLAND
39 GALVEZ COURT
PENSACOLA BEACH, FL 32561

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of :
Karen Ann England et al :
Application No. 10/334,965 : DECISION ON PETITION
Filed: December 31, 2002 : TO WITHDRAW
Attorney Docket No. 220313 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 5, 2011.

The request is **APPROVED**.

The request was signed by Peter Loffler on behalf of all the practitioners of record.

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

All future correspondence will be directed to inventor Karen Ann England at the above address.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Peter Loffler
P.O. Box 1001
Niceville, FL 32588-1001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/334,965	12/31/2002	Karen Ann England	220313

CONFIRMATION NO. 4697

Karen Ann England
39 Galvez Court
Pensacola Beach, FL 32561

POA ACCEPTANCE LETTER

OC000000048152131

Date Mailed: 06/13/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/05/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KAREN ANN ENGLAND
39 GALVEZ COURT
PENSACOLA BEACH, FL 32561

MAILED
JUN. 19 2011
OFFICE OF PETITIONS

In re Patent No. 6,941,581 :
Issue Date: September 13, 2005 :
Application No. 10/334,965 : ON PETITION
Filed: December 31, 2002 :
Patentee: Karen Ann England et al :

REQUIREMENT FOR INFORMATION

A petition was filed on May 18, 2011, which is being treated as a petition for reconsideration under 37 CFR 1.378(e) to accept the delayed payment of a maintenance fee for the above-identified patent.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to address the following issues before a decision is rendered. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).

This patent issued on September 13, 2005. Accordingly, the grace period for paying the first maintenance fee expired at midnight on September 13, 2009. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition for reconsideration under 37 CFR 1.378(e) to accept the delayed payment of a maintenance fee submitted on May 17, 2011 was signed by Karen England. Unfortunately, the petition for reconsideration does not meet the requirement(s) provided under 37 CFR 1.33(b). This petition for reconsideration can not be treated until the requirement(s) under 37 CFR 1.33(b) is satisfied. 37 CFR 1.33(b) states:

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

The response to this Requirement for Information should include a cover letter entitled "Response to Requirement for Information."

At the end of the two month period specified above, a decision will be rendered on the instant petition under 37 CFR 1.378 as supplemented by any information submitted in response to this Requirement for Information.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Karen England
125 N. Theard Street
Covington, LA 70433

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 ANN ENGLAND
125 N THEAD ST
COVINGTON LA 70433-2831

MAILED
JUN 13 2011
OFFICE OF PETITIONS

In re Application of :
Karen Ann England et al :
Application No. 10/334,965 : DECISION ON PETITION
Filed: December 31, 2002 : TO WITHDRAW
Attorney Docket No. 220313 : FROM RECORD
:

This is a courtesy copy of the decision mailed June 13, 2011, which was returned to the USPTO "FORWARD, TIME EXP RTN TO SEND."

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 5, 2011.

The request is **APPROVED**.

The request was signed by Peter Loffler on behalf of all the practitioners of record.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Karen Ann England at 39 Galvez Court, Pensacola Beach, FL 32561.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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KAREN ANN ENGLAND
125 N. THEARD ST
COVINGTON LA 70433-2831

MAILED
JUN 13 2011
OFFICE OF PETITIONS

In re Patent No. 6941581 :
Issue Date: September 13, 2005 :
Application No. 10/334,965 : ON PETITION
Filed: December 31, 2002 :
Patentee: Karen Ann England et al :

This is a courtesy copy of the decision mailed June 13, 2011, which was returned to the USPTO "FORWARD, TIME EXP RTN TO SEND."

REQUIREMENT FOR INFORMATION

A petition was filed on May 18, 2011, which is being treated as a petition for reconsideration under 37 CFR 1.378(e) to accept the delayed payment of a maintenance fee for the above-identified patent.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to address the following issues before a decision is rendered. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).

This patent issued on September 13, 2005. Accordingly, the grace period for paying the first maintenance fee expired at midnight on September 13, 2009. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition for reconsideration under 37 CFR 1.378(e) to accept the delayed payment of a maintenance fee submitted on May 17, 2011 was signed by Karen England. Unfortunately, the petition for reconsideration does not meet the requirement(s) provided under 37 CFR 1.33(b). This petition for reconsideration can not be treated until the requirement(s) under 37 CFR 1.33(b) is satisfied. 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless

there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

The response to this Requirement for Information should include a cover letter entitled "Response to Requirement for Information."

At the end of the two month period specified above, a decision will be rendered on the instant petition under 37 CFR 1.378 as supplemented by any information submitted in response to this Requirement for Information.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SEP 20 2011

OFFICE OF PETITIONS

KAREN ANN ENGLAND
39 GALVEZ COURT
PENSACOLA BEACH, FL 32561

In re Patent No. 6,941,581 :
Issue Date: September 13, 2005 :
Application No. 10/334,965 : ON PETITION
Filed: December 31, 2002 :
Patentee(s) Karen Ann England et al :

This is a decision on the petition for reconsideration under 37 CFR 1.378(e), filed August 12, 2011, to accept the delayed payment of a maintenance fee for the aboveidentified patent.

The petition is **GRANTED.**

The maintenance fee is hereby accepted and the aboveidentified patent is reinstated as of the mail date of this decision.

The Change of Correspondence Address submitted August 22, 2011 is not accepted. 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provision of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retainingan interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 2723210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Karen Ann England
125 N. Theard St.
Covington, LA 70433

RECEIVED
CENTRAL FAX CENTER
JUN 0 1 2011

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/26/11

TO SPE OF : ART UNIT 3992

SUBJECT : Request for Certificate of Correction for Appl. No.: 10335552 Patent No.: 7194336

CofC mailroom date: 5/20/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director's SPE response to 571-270-9990

Note: Drawing

and claims

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☒ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: THE CHANGE OF ELEMENT NUMBER IN FIG 11B IS APPROVED. HOWEVER APPLICANT SHOULD BE AWARE THAT ELEMENT NUMBER NOT CONSISTENTLY USED IN OTHER DRAWINGS, SEE FIG 11A, 11F(1)

- CHANGES TO CLAIMS 15 AND 16 DENIED, CORRESPONDING COLUMNS ARE NOT THE CORRECT COLUMNS FOR CLAIMS 15 AND 16

5/31/11

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE Art Unit

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

MAILED

MAY 25 2011

OFFICE OF PETITIONS

In re Patent No. 6,874,633 :
Issue Date: April 5, 2005 :
Application No. 10/335,579 : NOTICE
Filed: December 31, 2002 :
Attorney Docket No. D25.2N-4867-US03

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of :
Robinson et al. :
Application No. 10/336,566 : DECISION ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 12804-006001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, April 3, 2009, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on October 4, 2009. A Notice of Abandonment was mailed December 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 (previously submitted on October 5, 2009) and the submission required by 37 CFR 1.114, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Petitioner has submitted an unnecessary duplicate RCE fee of $405.00 which will be refunded to petitioner's deposit account in due course.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the duplicate $555.00, three- month extension of time fee submitted on January 18, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 1648 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Anita L. Meiklejohn
One Marina Park Drive
Boston, Massachusetts 02210-1878

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TELEZYGOLOGY, INC.
520 W. ERIE STREET, SUITE 100
CHICAGO, IL 60654

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of
Dickory Rudduck
Application No. 10/336,649
Filed: January 3, 2003
Attorney Docket No. 112427.129 US1

DECISION ON PETITION

This is a decision on the petition, filed July 20, 2011, which is being treated as a petition under 37 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The application is held abandoned for failure to timely file a proper reply to the final Office action mailed on October 29, 2009. A Notice of Abandonment was mailed June 20, 2011.

Petitioner asserts that a response was filed on January 25, 2011 and therefore requests that the abandonment be withdrawn.

A review of the file record indicates that on October 29, 2009, the Office mailed a final Office action. In response a Notice of Appeal and a Pre-Appeal Brief Request for Review was filed on April 30, 2010 with a three (3) month extension of time. On July 21, 2010 the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review and in response on November 22, 2010, petitioner filed an Appeal Brief including a three (3) month extension of time and fee of $555. However, on December 9, 2010 the Office mailed a communication stating that the Appeal Brief filed on November 22, 2010, could not be accepted since the fee of $270 required by 37 CFR 41.20(b)(2) was not submitted. On January 25, 2011 petitioner filed a response to the communication dated December 9, 2010 which included a one (1) month extension of time, fee transmittal, a Credit Card Payment form and an itemized post card receipt.

Petitioner alleges in the petition herein, that the insufficient fee of $270 for the Appeal Brief was submitted via credit card authorization on January 25, 2011, but was not charged.

Nevertheless, a proper and timely reply should have been submitted on or before January 21, 2011, with a five (5) month extension of time, since the period for reply was still running from the Notice of Panel Decision from Pre-Appeal Brief Review, mailed on July 21, 2010.

In view of the above, the abandonment is proper. The petition requesting withdrawal of the holding of abandonment cannot be granted.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), $810.00 for a small entity;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By Hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059.

./Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TELEZYGOLOGY, INC.
520 W. ERIE STREET, SUITE 100
CHICAGO, IL 60654

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of :
Dickory Rudduck :
Application No. 10/336,649 : DECISION ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 112427.129 US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2011, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed December 9, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 10, 2011. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with fee under 37 CFR 41.20(b)(2), (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2856 for appropriate action by the Examiner in the normal course of business on the reply received November 22, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Compiano et al.	:	
Application No. 10/336,671	:	DECISION GRANTING STATUS
Filed: January 2, 2003	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 026595-006720US	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 7, 2003.

The petition is **GRANTED**.

Petitioner has shown that the nonsigning inventor, Craig Compiano, has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner submitted $130.00 towards payment of the requisite $200.00 petition fee. Accordingly, an additional $70.00 will be charged to petitioner's deposit account as authorized.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

This matter is being referred to the Office of Data Management to await a response to the Notice of Allowance mailed July 29, 2010.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CRAIG COMPIANO
4863 HARBORD DRIVE
OAKLAND, CA 94618

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Compiano et al.	:	
Application No. 10/336,671	:	ON PETITION
Filed: January 2, 2003	:	
Attorney Docket No. 026595-006720US	:	

Mr. Compiano,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

/s/
David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 5, 2011

TO SPE OF : ART UNIT 3716

SUBJECT : Request for Certificate of Correction for Appl. No.: 10336984 Patent No.: 7,137,892

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

_____
Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 3716
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

JUN 02 2011

OFFICE OF PETITIONS

Thomas C. H. Chen
5468 Cedar Creek Dr.
Houston TX 77056

In re Patent No. 7,154,398 :
Issue Date: December 26, 2006 : ON PETITION
Application No. 10/337,096 :
Filed: January 6, 2003 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 6, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within TWO (2) MONTHS from the mail date of this decision. The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition Under 37 CFR 1,378(c) to Accept Unintentionally Delayed Payment of Maintenance Fee."

The patent expired on December 27, 2010 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

37 CFR 1.378(c) requires any petition under 37 CFR 1.378 to be signed by an attorney or agent registered to practice before the United States Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance in § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Mr. Thomas C.H. Chen) was ever given a power of attorney to act on behalf of inventor Connie J. Chen, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571-273-8300)**.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

AUG 26 2011

OFFICE OF PETITIONS

Thomas C. H. Chen
5468 Cedar Creek Dr.
Houston TX 77056

In re Patent No. 7,154,398 :
Issue Date: December 26, 2006 : ON PETITION
Application No. 10/337,096 :
Filed: January 6, 2003 :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed July 26, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **GRANTED**.

The patent expired on December 27, 2010 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mailing date of this decision.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

for Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

MAILED
NOV 02 2011
OFFICE OF PETITIONS

In re Application of
Skog et al.
Application Number: 10/337,198
Filing Date: 01/06/2003
Attorney Docket Number: P13675-US1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition, filed on October 6, 2011, styled under 37 CFR 1.78, which is treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§ 365(c) and 120 for the benefit of priority to a prior-filed international application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Receipt of the amendment, filed on May 16, 2003, containing the claim of benefit to the prior-filed international application is acknowledged.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2453 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Bryan Lin
Legal Advisor
Office of PCT Legal Administration

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/337,198	01/06/2003	2453	1204	P13675-US1	15	2

CONFIRMATION NO. 5090

CORRECTED FILING RECEIPT

27045
ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

Date Mailed: 11/01/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert Bengt Skog, Hasselby, SWEDEN;
Staffan Pehrson, Danderyd, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 27045

Domestic Priority data as claimed by applicant

This application is a CON of PCT/SE01/01564 07/06/2001

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
SWEDEN 0002572-6 07/07/2000

If Required, Foreign Filing License Granted: 02/27/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/337,198**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for adapting information content according to the capability of the access bearer

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7052180	2006-05-30	10337246	2003-01-06	67090-015

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Karin H. Butchko/	Date (YYYY-MM-DD)	2010-12-22
Name	Karin H. Butchko	Registration Number	45864

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7052180
Issue Date: May 30,2006
Application No. 10337246
Filed: January 6,2003
Attorney Docket No. 67,090-015

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

MAR 15 2011

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON, et al.
Application No. 10/337,808
Filed: January 6, 2003
For: **CALCULATION METHOD FOR PREDICTION MOTION VECTOR**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed October 13, 2010.

Applicants request a third period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 11/907,460 ('460 application). As stated in Applicants' previous Petition to Suspend, the art cited against the claims in the subject application is the same as art cited against the claims in the '460 application. The claims include at least one feature commensurate in scope with at least one feature claimed in the '460 application. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of the '460 application. As such, the outcome of the Appeal in the '460 application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.
[emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/337,870	01/08/2003	Masaki Ukai	826.1577D	2837

21171 7590 07/22/2011

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
KIM, KENNETH S	

ART UNIT	PAPER NUMBER
2111	

MAIL DATE	DELIVERY MODE
07/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Application No.: 10337870 :
Filed: 01/08/2003 : **DECISION ON PETITION**
Patent Number: 7,925,870 :
Issue Date: 04/12/11 :
Attorney Docket No. **826.1577D** :

This is a decision on the Petition filed under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO) on July 14, 2011. Petitioner seeks relief from filing a Petition for Duplicate Letters Patent in this application due to the non-receipt of a large number of Patent Grants in the April 12, 2011 issue.

The Petition is **GRANTED**.

Petitioner submitted a statement that the Patent Grant was not received at the correspondence address of record; that a search of records did not indicate receipt; and that the docketing system is sufficiently reliable. Petitioner filed a copy of the docketing records showing receipts dates and application history as evidence.

Therefore, the Office of Data Management will provide one additional Original Letters Patent for this application.

Telephone inquiries relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/
Manager
Office of Data Management
Patent Publication Branch

OK TO ENTER
LVCook 12/5/10

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,588,908 B2

APPLICATION NO. : 10/338,182

ISSUE DATE : September 15, 2009

INVENTOR(S) : Kenneth F. Buechler, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

~~In item (54), the title should read....~~ ~~Novel~~ ~~Compositions and Methods for Inhibiting Light-Induced Inactivation of Biological Reagents~~

NO

Title

On the ~~cover~~ page, under the Related U.S. Application Data, item (63) is missing. Please add: Continuation of application No. 08/837,309, filed on April 9, 1997, now Pat. No. 6,544,797.

On claim 3, please correct a misspelled word... "liposorne" should be "liposome".

MAILING ADDRESS OF SENDER: (Please do not use customer number below)
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : October 18, 2010

Patent No. :7472335
Inventor :Kelly Brian Cameron, et al.
Patent Issued :December 30, 2008
Title :SYMBOL BY SYMBOL, VARIABLE CODE RATE CAPABLE COMMUNICATION :DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the title page, item [*] Notice; the requested change to include reference data is not warranted entry.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Garlick Harrison & Markison
P.O. Box 160727
Austin, TX 78716-0727

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6941690
Issue Date: September 13,2005
Application No. 10338320
Filed: January 8,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 27,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 27,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6941690	2005-09-13	10338320	2003-01-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/William N. McCambley, Jr./	Date (YYYY-MM-DD)	2010-10-27
Name	William N. McCambley, Jr.		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DYKAS & SHAVER LLP
P.O. BOX 877
BOISE ID 83701-0877

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Patent No. 6,844,500 :
Issued: January 18, 2005 :
Application No. 10/338,352 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. CONL153 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2011, which will be treated as a petition under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) listed above.

With regards to item (1), the petition must be signed by:

1) An attorney or agent of record appointed in compliance with § 1.34(b);
2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) **All of the applicants (§§ 1.42.1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

Petitioner has submitted a petition under 37 CFR 1.378(c), however, the petition as signed cannot be accepted since Maurice Bailey is not authorized to sign the instant petition. Further, petitioner has not established that the person who signed the petition form is authorized to sign on behalf of the patentee(s), assignee, or other party of interest. Consequently, the petition under 37 CFR 1.378(c), cannot be accepted at this time. A renewed petition with the proper signature as listed above is required.

Further, if the instant petition is on the behalf of the assignee, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Petitioner has failed to submit a Statement Under 37 CFR 3.73(b).

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571)-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96 - Statement under 3.73(b)

cc: Maurice Bailey
2428 Peace Point Trail
Hoschton, Georgia 30548

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____ , a _____

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____

Signature Date

_____ _____

Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7158630
Issue Date: January 2,2007
Application No. 10338518
Filed: January 8,2003
Attorney Docket No. 113795.122 US3

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 25,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 25,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7158630	2007-01-02	10338518	2003-01-08	0113795.00122US3

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric L. Prahl/	Date (YYYY-MM-DD)	2011-05-24
Name	Eric L. Prahl	Registration Number	32590

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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BATES & BATES, LLC
1270 CAROLINE STREET
SUITE D-120-393
ATLANTA GA 30307

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Patent No. 6,765,136 :
Issue Date: July 20, 2004 :
Application No. 10/338,805 : DECISION ON PETITION
Filed: January 08, 2003 :
Attorney Docket No. **001701/0066** :

This is a decision on the petition under 37 CFR 1.378(c), filed July 14, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on July 20, 2008 for failure to pay the three and one half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **ANDREA BATES**
BATES & BATES, LLC
1270 CROLINE STREET
SUITE D-120-393
ATLANTA GA 30307

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7079500	2006-07-18	10338973	2003-01-08	42P11568D

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-13
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7079500
Issue Date: July 18,2006
Application No. 10338973
Filed: January 8,2003
Attorney Docket No. 42P11568D

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100826

DATE : August 256 2010

TO SPE OF : ART UNIT 2457
SUBJECT : Request for Certificate of Correction for Appl. No/10/339144 pat. 7287075

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Ario Etienne 2457

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Kazumi SUGA	:	
Application No. 10/339,287	:	DECISION ON PETITION
Filed: January 10, 2003	:	
Attorney Docket No. 03500.016932.	:	

This is a decision on the petition, filed June 10, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before May 12, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 12, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 13, 2010.

Petitioner asserts that the Notice dated February 12, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

This application is being referred to the Technology Center AU 2621 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of February 12, 2010. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BATES & BATES, LLC
1270 CAROLINE STREET
SUITE D-120-393
ATLANTA, GA 30307

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Patent No. 6,849,792 :
Issue Date: February 1, 2005 :
Application No. 10/339,372 : ON PETITION
Filed: January 9, 2003 :
Patentee(s) Nathan W. Yeakel :

This is a decision on the petition under 37 CFR 1.378(c), filed July 14, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7215347
Issue Date: May 8,2007
Application No. 10339491
Filed: January 10,2003
Attorney Docket No. 0739-0128P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 5,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 5,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7215347	2007-05-08	10339491	2003-01-10	5022-0102PUS1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James M. Slattery/	Date (YYYY-MM-DD)	2011-07-05
Name	James M. Slattery	Registration Number	28380

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

In re Patent No. 6,757,184 :
Issued: 06/29/2004 :
Application No. 10/339,576 : NOTICE
Filed: 01/10/2003 :
Attorney Docket No. 01640354AA :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 15, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,787,539	:	DECISION ON REQUEST
Chen	:	FOR
Issue Date: August 31, 2010	:	RECONSIDERATION OF
Application No. 10/340,061	:	PATENT TERM ADJUSTMENT
Filed: January 9, 2003	:	and
Atty Docket No.13884US02	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, eight hundred and sixty-nine (1,869) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one thousand, eight hundred and fifty-nine (1,859)** days is **GRANTED to the extent indicated herein**[1].

Patentees' assert that the Office's calculation of the "B" delay period is inaccurate because the "B" delay period was calculated beginning the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on the day before the date the Request for Continued Examination was filed. Patentees maintain that said period

[1] The appeal period excluded from the "B" delay period is 259 days, not 258. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id. Thus, in this instance, the period of appeal excluded from the "B" delay period is 259 days with said period beginning April 9, 2008, and ending December 23, 2008.

should end on the day the Request for Continued Examination was filed.

It is noted that 35 U.S.C. 154 authorizes the Director to establish the procedures for the application for and the determination of patent term adjustments. Those procedures include the calculation of the period of adjustment as set forth in 37 CFR 1.702(b) and 37 CFR 1.703(b). 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

As such, it is evident that 35 U.S.C. 154 gives the USPTO rulemaking authority relative to the determination of patent term adjustments and the authority to implement and interpret said rules. Accordingly, 37 CFR 1.702(b) and 37 CFR 1.703(b)(1) is interpreted to mean that the period of adjustment to the patent term for failure to issue the patent within three years of after the date the application was filed under 35 U.S.C. 111(a) begins on the day after the date that is three years after the date on the which the application was filed under 35 U.S.C. 111(a), and ends on the day before the date the Request for Continued Examination was filed.

Accordingly, as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 10, 2006, and ends on December 22, 2009, the day before the RCE was filed, and is 1443 days, before any reduction for the excluded period.

Patentees' assertion that the Office miscalculated the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) is not persuasive. The period of reduction to the patent term adjustment under 37 CFR 1.704(c)(10) begins on, and includes, the date the paper was filed and ends on, and includes, the mailing date of any response to the paper or four months from the filing of the papers, which ever is earlier. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id. Thus, in this instance, the period of reduction to the patent term adjustment is 30 days.

Patentees again dispute the period of reduction of 2 days entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b). This reduction has been reconsidered, and it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. **Accordingly, the period of reduction of 2 days is being removed.**

In view thereof, the revised patent term adjustment is 1,859 days (1,184 "B" delay + 1052 "A" delay - 195 days of overlap - 182 days of applicant delay.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, eight hundred and fifty-nine (1,859)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,787,539 B2

DATED : Aug. 31, 2010

INVENTOR(S) : Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1858) days

Delete the phrase "by 1858 days" and insert – by 1859 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/340,290	01/10/2003	E. J. Dale	037033-0314074	5400

909 7590 01/19/2011
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
DANNEMAN, PAUL

ART UNIT	PAPER NUMBER
3627	

NOTIFICATION DATE	DELIVERY MODE
01/19/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket_ip@pillsburylaw.com
margaret.drosos@pillsburylaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte E. J. DALE, ALASTAIR J. GREGORY, BERIN C. LORITSCH, & WILLIS S. DUNCAN

Application 10/340,290
Technology Center 3627

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 1.183," filed January 4, 2011 ("Petition"). The Petition requests that:

1. Request for Oral Hearing filed January 4, 2011, which was filed with the Petition, be accepted as timely filed;

FINDINGS

1. Appellants filed an Appeal Brief on July 27, 2010.
2. The Examiner entered an Examiner's Answer on November 3, 2010.
3. Appellants filed a Reply Brief on January 3, 2011
4. In the Petition, Appellant's Attorney states: "Appellant filed a Reply Brief on January 3, 2011, but inadvertently neglected to file a Request for Oral Hearing at the same time. Immediately upon discovery of the inadvertent error (within one day), Appellant has undertaken the preparation and filing of this Petition, along with the appropriate fees

> for this Petition, and the fee for the Request for Oral Hearing for which entry is requested" Petition, ¶ 2.

RELEVANT AUTHORITY

In respect to waiver of the rules, 37 C.F.R. § 1.183 provides:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17 (f).

In respect to respect to Oral Hearings, §41.47 states:

> (a) An oral hearing should be requested only in those circumstances in which appellant considers such a hearing necessary or desirable for a proper presentation of the appeal. An appeal decided on the briefs without an oral hearing will receive the same consideration by the Board as appeal decided after an oral hearing.

DISCUSSION

Appellants' Petition states "In view of the short delay between the expiration of the time period for filing the Request for Oral Hearing and the filing of this Petition, and the inadvertent nature of the delay, Appellant respectfully request that the Request for Oral Hearing be entered". This statement, does not meet the requirement of § 1.183, namely what extraordinary situation, when justice requires the waiver of the rule.
In addition, §41.47 requires that an appeal will receive consideration on brief as an appeal after an Oral Hearing, so Appellants will not be impacted by not having an Oral Hearing.

DECISION

In view of the foregoing, the Petition is DENIED.

James T. Moore
Acting Chief Administrative Patent Judge

Pillsbury Winthrop Shaw Pittman LLP
1650 Tysons Boulevard
McLean, VA 22102

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100723

DATE : August 4, 2010

TO SPE OF : ART UNIT 2465

SUBJECT : Request for Certificate of Correction on Patent No.: 7385995

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The requested corrections shown in the COCIN document is approved because no new matter has been introduced and the scope of meaning of the claims has not been changed.

SPE: Jay Patel **Art Unit** 2465

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/10/08 Paper No.: _____

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction for Appl. No.: 10340606 Patent No.: 7385995

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Allen Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The requested corrections shown in the COCIN document is approved because no new matter has been introduced and the scope of meaning of the claims has not been changed.

/ Jay Patel / 2465

SPE **Art Unit**

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INDIANOLA PA 15051

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FEB 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,179,274 :
Issue Date: February 20, 2007 :
Application No. 10/340,709 : NOTICE
Filed: January 13, 2003 :
Attorney Docket No. PS/10-014.PCT.US.CIP :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on October 21, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application	:	
Brodeur, et al.	:	
Application No. 10/340,792	:	DECISION ON APPLICATION
Filed: January 13, 2003	:	FOR PATENT TERM ADJUSTMENT
Patent No. 7,914,794	:	AND NOTICE OF INTENT
Issued: March 29, 2011	:	TO ISSUE
Docket No. 484112.418C1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(b), filed December 23, 2010, which is also being treated as a petition under 37 CFR 1.705(d), as the application issued into Patent No. 7,914,794 on March 29, 2011. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

On September 29, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above application. The Notice stated that the patent term adjustment (PTA) to date was seven hundred ninety-five (795) days. Applicants timely filed the instant application for patent term adjustment on December 23, 2010, asserting that the correct patent term adjustment was seven hundred ninety-two (792) days. Prior to consideration of the application for patent term adjustment, the application issued into Patent No. 7,914,794 with a patent term adjustment of one thousand, eight hundred thirty-three (1833) days.

The Office determined a patent term adjustment of one thousand, eight hundred and thirty-three (1833) days at issuance based on an adjustment for PTO delay of seven hundred twenty-four (724) days pursuant to 37 CFR 1.703(a)(1), three hundred five (305) days and eleven (11) days pursuant to 37 CFR 1.703(a)(2) (collectively the "A" delay), and one thousand, four hundred seventy-four (1474) days pursuant to 37 CFR 1.703(b) (the "B" delay), reduced by four instances of applicant delay pursuant to 37 CFR 1.704(b) of thirty (30), ninety-three (93), ninety-two (92), and thirty (30) days, and two instances of applicant delay pursuant to 37 CFR 1.704(c)(10) of twenty-three (23) and ninety-seven (97) days.

A review of the file indicates that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on January 14, 2006 and ended on March 29, 2011, and is 1901 days. See 35 U.S.C. 154(b)(1)(B)(i). Accordingly, the "B" delay period is 1901 days, not 1474 days.

Applicants point out that they should have been assessed additional days of delay under 37 CFR 1.704(b). The Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures on March 6, 2003. Applicants did not file a reply until August 6, 2003 (made timely for purposes of avoiding abandonment by obtaining a three month extension of time). Accordingly, pursuant to 37 CFR 1.704(b), sixty-one (61) days of applicant delay should have been assessed.

In addition, Applicants point out that the Office was improperly assessed three hundred five (305) days of delay pursuant to 37 CFR 1.703(a)(2). Applicants state that the four month clock for mailing an Office action should not have stopped on January 14, 2009, the date that the Office allegedly mailed a communication requiring a new sequence listing. According to Applicants, no such action was mailed on that date. A review of the file in the Image File Wrapper reveals that applicants are correct (the communication was in fact mailed on December 10, 2007). Therefore, the clock should have stopped on March 13, 2009, the date the Office mailed a non-final Office action in response to Applicants' Amendment file February 11, 2008. As such, two hundred seventy-five (275) days of PTO delay should have been assessed pursuant to 37 CFR 1.703(a)(2).

Lastly, a review of the file reveals that when the application issued into Patent No. 7,914,794, patentees were assessed ninety-

seven (97) days of delay for filing the instant application for patent term adjustment. However, pursuant to 37 CFR 1.704(e), no applicant delay should be assessed for the filing of an application for patent term adjustment. Accordingly, zero (0) days should have been assessed for this filing.

In view thereof, the correct number of days of patent term adjustment is 2243 days (1010 days (724+275+11) of "A" delay and 1901 days of "B" delay, reduced by 339 days of overlap between "A" and "B" delay and 329 days (61+30+93+92+30+23) of Applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand two hundred forty-three (2243)** days.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,914,794 B2

DATED : **March 29, 2011**

INVENTOR(S) : Brodeur et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1833 days.

Delete the phrase "by 1833 days" and insert – by 2243 days--

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SUITE 5400
SEATTLE WA 98104

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OFFICE OF PETITIONS

In re Application	:	
Brodeur, et al.	:	
Application No. 10/340,792	:	DECISION ON APPLICATION
Filed: January 13, 2003	:	FOR PATENT TERM ADJUSTMENT
Patent No. 7,914,794	:	AND NOTICE OF INTENT
Issued: March 29, 2011	:	TO ISSUE
Docket No. 484112.418C1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed May 26, 2011. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

On September 29, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above application. The Notice stated that the patent term adjustment (PTA) to date was seven hundred ninety-five (795) days. Applicants timely filed an application for patent term adjustment on December 23, 2010, asserting that the correct patent term adjustment was seven hundred ninety-two (792) days. Prior to consideration of the application for patent term adjustment, on March 29, 2011, the application issued into Patent No. 7,914,794 with a patent term adjustment of one thousand, eight hundred thirty-three (1833) days. On June 6, 2011, the Office mailed a decision on the application for patent term adjustment, indicating that the correct patent term adjustment was two thousand, two hundred forty-three (2243) days.

In a conversation between attorney Rosok and the undersigned, attorney Rosok indicated that she was in agreement with the June 26, 2011 decision on patent term adjustment, with one exception. Specifically, as pointed out in the May 26, 2011 application for patent term adjustment, Patentees assert that they should have been accorded one hundred twenty (120) days of applicant delay pursuant to 37 CFR 1.704(c)(10), not twenty-three (23) days as reflected in PAIR.

A review of the file reveals that applicants filed a Rule 312 Amendment on November 30, 2010. The Office did not mail a reply to the Rule 312 Amendment until it mailed the issued patent on March 29, 2011. Accordingly, pursuant to 37 CFR 1.704(c)(10), one hundred twenty (120) days of Applicant delay should have been assessed.

In view thereof, the correct number of days of patent term adjustment is 2146 days (1010 days (724+275+11) of "A" delay and 1901 days of "B" delay, reduced by 339 days of overlap between "A" and "B" delay and 426 days (61+30+93+92+30+120) of Applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand one hundred forty-six (2146)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: copy of draft Certificate Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,914,794 B2

DATED : **March 29, 2011**

INVENTOR(S) : Brodeur et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1833 days.

Delete the phrase "by 1833 days" and insert – by 2146 days--

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

MAILED
AUG 03 2010
OFFICE OF PETITIONS

In re Patent No. 7,178,050 :
Fung et al. :
Issue Date: February 13, 2007:
Application No. 10/341,041 : DECISION ON REQUEST FOR
Filed: January 13, 2003 : CERTIFICATE OF CORRECTION
Atty Docket No. ORACL-01173US2:

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322," filed December 5, 2008, requesting correction of the patent term adjustment indicated in the patent from "688" days to -615- days.

The request is **DISMISSED**.

Patentee is given **ONE MONTH or THIRTY (30) DAYS**, whichever is longer, to respond to this decision. No extensions of time will be granted under § 1.136(a).

On February 13, 2007, the above-identified application matured into U.S. Patent No. 7,178,050 with a revised patent term adjustment of 688 days. The instant request was filed on December 5, 2008, more than one year and nine months after issuance of the patent.

Issuance of a certificate of correction under § 1.322 is permitted if an error in the patent is shown. No error in the patent has been shown. The patent term adjustment indicated in the patent reflects the patent term adjustment shown in the PALM (and presumably PAIR) system for this application. Accordingly, no certificate of correction will be issued to change the PTA under 37 C.F.R. § 1.322 (or § 1.323).

Patentees are advised that the filing of a certificate of correction is not an alternative to the procedure set forth in 37 CFR § 1.705. Patentees contesting the underlying determination, rather than an alleged printing error, have to avail themselves of the time frames stated in § 1.705(d). Moreover, § 1.705(d), states "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within 2 months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section."

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

3-18-2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No : 7,209,579 B2
Ser. No. : 10/341,715
Inventor(s) : Weisenberger, et. al.
Issued : April 24, 2007

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will issue to correct the remaining error noted in your request.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Ronald G. Sakach
1500 Forest Ave., Ste.212
Richmond, VA 23229

ej

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MAILED
MAR 16 2012
OFFICE OF PETITIONS

Theresa K. Read
3660 Druids Drive
Conyers GA 30013

In re Application of :
Read :
Application No. 10/341,799 : DECISION ON PETITION
Filed: January 14, 2003 :
Attorney Docket No. 080715-1010 :
For: COMPUTERIZED RANDOM :
VARIABLE SELECTOR, APPARATUS,
SYSTEM AND METHOD

This is a decision on the petition, filed January 17, 2012, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed June 14, 2011. The Office Action set a three (3) month shortened statutory period for reply. A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on December 15, 2011. A Notice of Abandonment was mailed on December 19, 2011.

Petitioner contends that the response submitted on December 16, 2011 included a certificate of mailing dated December 12, 2011.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

> 1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
> (C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the

correspondence would be mailed or transmitted on or before the date indicated.

The petition satisfies the above requirements of 37 CFR 1.8. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 14, 2011 is hereby withdrawn and the application restored to pending status.

The Office has located the original reply received on December 16, 2011 with the certificate of mailing dated December 12, 2011. The reply included an amendment. As such the reply is deemed timely.

It is noted that a duplicate extension of time has been submitted accordingly the fee will be refunded to the credit card.

This application is being referred to Technology Center AU 3689 for appropriate action in the normal course of business on the reply received on December 16, 2011.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/341,826	01/14/2003	Hiroya Miyazaki	KAM 14.726D	9907

26304 7590 12/14/2010
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER	
HANSEN, COLBY M	
ART UNIT	PAPER NUMBER
3682	
MAIL DATE	DELIVERY MODE
12/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DEC 13 2010

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

Application of:	MIYAZAKI ET AL.	:	
Patent No.:	6,761,486	:	**DECISION ON**
		:	**PETITION**
Filed:	JANUARY 14, 2003	:	**UNDER 37 CFR 1.324**
Application No.	10/341,826		
For:	ROLLING BEARING FOR	:	
	SUPPORTING VEHICLE	:	
	WHEEL	:	

This is a decision on the petition filed July 26, 2010 to correct inventorship under 37 CFR 1.324.

The petition is **Granted**.

A petition to correct inventorship as provided by 37 CFR 1.324 requires:

(**1**) a statement from each person who is being added as an inventor and from each person who is being deleted as an inventor that the inventorship error occurred without any deceptive intention on their part,
(**2**) a statement from the current named inventors who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change,
(**3**) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and
(**4**) the fee set forth in 37 CFR 1.20(b).

This renewed petition satisfies all of the items above, accordingly this renewed petition is granted. The patented file is being forwarded to Certificates of Corrections Branch for issuance of a certificate naming the actual inventors.

Any inquiry regarding this petition decision can be directed to Richard Ridley at (703) 272-6917.

Summary: Petition **GRANTED**.

Richard WL Ridley
Supervisory Patent Examiner, Art Unit 3656
(571) 272-6917

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. **6,761,486**
PATENTED **July 13, 2004**

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 USC 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

- Hiroya Miyazaki
- Yoshihisa Ohnuki
- Takafumi Kuwano
- Hiroyuki Sawai