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)
7041699	2006-05-09	10/342,044	2003-01-13	RIPLLC018.009US1

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

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

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. 7041699
Issue Date: May 9,2006
Application No. 10342044
Filed: January 13,2003
Attorney Docket No. 11957/22

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL D. GREELEY, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10th FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Charles Palmer et al. :
Application No. 10/342,482 :
Filed: January 16, 2003 :
Attorney Docket No. **823.0002USQX** :

NOTICE

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

The Office no longer investigates or rejects original or reissue 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.

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: **DOUGLAS L. WATHEN**
GIFFORD, KRASS, SPRINKLE et al
P.O. BOX 7021
TROY MI 48007-7021

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MAILED
MAR 02 2012
OFFICE OF PETITIONS

Dennemeyer & Co. Ltd
Regent House, Heaton Lane
Stockport, Cheshire SK4 1BB
United Kingdom

In re Patent of Jurgen Rue	:	
Patent No. 7,396,561	:	**Letter and Notice of Non-Acceptance of**
Issue Date: July 8, 2008	:	**Patent Maintenance Fee**
Application No. 10/343,035	:	
Int'l Filing Date: July 24, 2011	:	
Attorney Docket No. MICR-01U1	:	

This is a letter responding to a request filed January 24, 2012, which requests the Office accept an additional $565 for the 3.5 year maintenance fee.

The request is dismissed.

As discussed in this letter, the patent will expire unless the required surcharge of $150 is submitted on or before July 9, 2012.

Background

The issue fee was filed June 8, 2008. The issue fee was submitted in the amount due for a large entity and a letter filed with the issue fee informed the Office the application was no longer entitled to small entity status.

Although the Office accepted the issue fee submission in the amount due for a large entity, the Office inadvertently failed to change Office records to indicate the application was no longer entitled to small-entity status.

Dennemeyer & Co. Ltd ("Dennemyer") submitted $565 for the 3.5 year maintenance fee on January 6, 2012.

On January 24, 2012, Dennemeyer submitted a letter stating Dennemeyer had learned large entity status applies to the patent. The letter requests the Office charge an additional $565 to Deposit Account No. 04-0750. The January 24, 2012 letter does not provide the Office with the authority to charge the $150 surcharge set forth in 37 C.F.R. § 1.20(h) to the deposit account.

The Office charged an additional $565 to the deposit account on January 26, 2012, based on the instructions in the January 24, 2012 letter.

Discussion

The January 24, 2012 Letter is not a Proper Request Under 37 C.F.R. § 1.28(c).

The record indicates Dennemeyer *might* intend to for the letter filed January 24, 2012, to be a request under 37 C.F.R. § 1.28(c).

37 C.F.R. § 1.28(c) states,

> If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section.

The following requirements must be satisfied for the Office to accept a deficiency payment under 37 C.F.R. § 1.28(c):

1. Status as small entity was established in good faith,
2. A fee was paid as a small entity in good faith, *and*
3. "[I]t is later discovered that such status was a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status."

Dennemeyer has not satisfied the third requirement set forth above. Specifically, Dennemeyer has not established small entity status was established in error and has not established the Office was not notified of the loss of entitlement to small entity status. Therefore, the additional $565 cannot be accepted as a deficiency payment under 37 C.F.R. § 1.28(c). The Office notes, even if the provisions of 37 C.F.R. § 1.28(c) applied to the facts in this case, the request would be dismissed because the request is not signed by one of the parties identified in 37 C.F.R. § 1.34.

The $150 Surcharge Must be Timely Paid to Avoid Expiration of the Patent.

The surcharge set forth in 37 C.F.R. § 1.20(h), which is $150 for a large entity, must be submitted when the maintenance fee is submitted during the six-month grade period. The Office did not receive the total 3.5 year maintenance fee due for the patent until January 24, 2012, which falls within the six-month grace period set forth in 37 C.F.R. § 1.366(e)(1). Therefore, the surcharge of $150 must be submitted on or before July 9, 2012.

The Address of Record

The address on the request is different than the fee address of record, which is:

Dennemeyer & Co Luxemburg
P.O. Box 1502
L – 1015
Luxembourg

In order to reduce the probability of confusion, the Office is mailing the instant correspondence to the address on the January 24, 2011 request. However, the Office will mail all future correspondence concerning maintenance fees to the current fee 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/343,135	01/28/2003	David Paul Owen	1570.3039.001	7270

7590 11/09/2010

Eric T Jones
Reising Ethington Barnes
Kisselle Learman & McCulloch
PO Box 4390
Troy, MI 48099-4390

EXAMINER
LUGO, DAVID B

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
11/09/2010	PAPER

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

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

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Eric T Jones
Reising Ethington Barnes
Kisselle Learman & McCulloch
PO Box 4390
Troy MI 48099-4390

In re Application of:
OWEN, DAVID PAUL et al.
Application Serial No.: 10/343,135
Filed: January 28, 2003
For: **SIGNAL MEASUREMENT**

DECISION
ON PETITION

This is a decision on the petition filed August 11, 2010, under 37 CFR 1.181(a)(1) to invoke the supervisory authority of the Commissioner to review the validity of the Examiner's action in reopening prosecution following the Decision of the Board of Patent Appeals and Interferences of January 22, 2010 and vacate the outstanding Office action.

The petition is **DENIED**.

Background

On January 22, 2010, the Board of Patent Appeals and Interferences rendered a decision reversing the examiner's rejection of claims 1-12 (all pending claims.)

On May 19, 2010, a new non-final Office action was mailed reopening prosecution, rejecting all pending claims as being unpatentable under 35 USC § 103 using combinations of prior art as described below.

Petitioner contends, in the Office action of May 19, 2010, "the Examiner supports his obviousness rejection of base claim 1 by relying upon prior art already of record and by relying upon a line of reasoning that, though commonly relied upon by examiners, is one that the Board rejected on appeal. By failing to cite new art, and by supporting his new rejections with a line of reasoning the Board has rejected, the Examiner has failed to show sufficient cause under 37 CFR 1.198 as to why prosecution should be reopened.".

Authorities

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 in part:

If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection. See MPEP § 1002.02(c) and MPEP § 1214.07. The TC Director's approval is placed on the action reopening prosecution.

Discussion

The grounds of rejection adjudicated by the Board of Patent Appeals and Interferences was for independent claim 1 and dependent claims 9, and 10 rejected under 35 USC 102(e) as being anticipated by Koizumi. Rejected as obvious under 35 USC 103(a): claims 2 and 4 based on Koizumi and Okayasu; claim 3 based on Koizumi and Roos; claim 5 based on Koizumi and Niemela; claim 6 based on Koizumi and Cadotte; claim 7 based on Koizumi, Cadotte, Ketonen, and Vaisanen; claim 8 based on Koizumi, Ketonen, and Navid; and claims 11 and 12 based on Koizumi and Seta. The grounds of rejection set forth in the Office action of May 19, 2010 is with respect to independent claim 1 and dependent claims 3, 9, and 10 under 35 USC 103(a) as being unpatentable over the U.S. Patent No. 6,519,227 to Koizumi in view of U.S. Patent No. 4,803,419 to Roos. Also rejected as obvious under 35 USC 103(a): claims 2 and 4 based on Koizumi, Roos, and Okayasu; claim 5 based on Koizumi, Roos, and Niemela; claim 6 based on Koizumi, Roos, and Cadotte; claim 7 based on Koizumi, Roos, Ketonen, and Vaisanen; claim 8 based on Koizumi, Roos, Ketonen and Navid; and claims 11 and 12 based on Koizumi, Ross, and Seta. It is true that these references were already of record at the time of the Board of Appeals decision on January 22, 2010. However, contrary to Petitioner's argument, none of the combinations set forth in the new grounds of rejection were previously adjudicated by the Board. For instance, the rejection of claim 1, the only independent claim, adjudicated by the Board was under 35 USC 102(e) as being anticipated by Koizumi alone. The Board did not sustain this rejection because they did not "find Koizumi either expressly or inherently teaches using a cable as a necessary structure for the relied upon line connection in Figure 1". The new grounds of rejection for claim 1 identified in the current office action is based on the combination of references under 35 USC 103(a) as being obvious over Koizumi in view of Roos. The new ground of rejection fully appreciates the recognition by the Board that Koizumi does not teach using a cable as claimed. In order to address this limitation, the new ground of rejection refers to the reference Roos to support why it would have been obvious to use a cable in the system of Koizumi. Additionally, the action of May 19, 2010 re-opening prosecution was approved by the Director (note signature on page 9 of the action) in accordance with rule and procedure discussed *supra*.

Decision

Since the combinations used in the rejections set forth by the examiner in the office action mailed May 19, 2010 were not previously adjudicated and the action was approved by the Director, the petition is **Denied**. Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted.

The Notice of Appeal filed August 10, 2010 has been received and entered into the application file. The application file will remain in the Tech Center to await Appeal Brief due by appellant.

John L. LeGuyader, Director
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/343,135	01/28/2003	David Paul Owen	1570.3039.001	7270

7590 03/08/2011

Eric T Jones
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Kisselle Learman & McCulloch
PO Box 4390
Troy, MI 48099-4390

EXAMINER
LUGO, DAVID B

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
03/08/2011	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.

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Eric T Jones
Reising Ethington Barnes
Kisselle Learman & McCulloch
PO Box 4390
Troy MI 48099-4390

In re Application of:
OWEN, DAVID PAUL et al.
Application Serial No.: 10/343,135
Filed: January 28, 2003

For: **SIGNAL MEASUREMENT**

DECISION
ON REQUEST FOR
RECONSIDERATION

This is a decision on the request for reconsideration filed January 05, 2011, of the Petition Decision of November 09, 2010 Denying the Petition filed under 37 CFR 1.181(a)(1) to invoke the supervisory authority of the Commissioner to review the validity of the Examiner's action in reopening prosecution following the Decision of the Board of Patent Appeals and Interferences of January 22, 2010 and vacate the outstanding Office action. This decision has not been treated as a petition to review the decision of Technology Center Director under 37 CFR 1.181. Rather the decision has been treated as a request for the Technology Center Director to reconsider the Denial of the previous petition.

The Request for reconsideration is **DENIED**.

The request for reconsideration alleges Petitioner's argument, that the new ground of rejection does not satisfy the 37 CFR 1.198 requirement that "sufficient cause" be shown because the new ground of rejection relies on reasoning rejected by the Board, was not addressed.

Contrary to the request for reconsiderations allegation, the Board did not reject the reasoning relied on in the current rejection of claims 1, 3, 9, and 10 under 103(a) as being unpatentable over Koizumi in view of Roos because such a rejection was not previously before the Board for consideration. The Board reversed the rejection of representative claims 1, 9, and 10 as being anticipated by Koizumi because Koizumi did not teach a cable connecting a signal measurement system detector head to a signal analyzer unit as claimed. Furthermore, the Board dismissed the notion that such a feature would be inherent as evidenced by the teachings of Roos which suggests a conventional microwave energy transmission line could be any of at least a coaxial cable, strip line, or wave guide. Based on this there is "sufficient cause" to reopen prosecution as evidenced by the new ground of rejection that now states claims 1, 3, 9, and 10 are rejected under 35 USC 103(a) as being patentable over Koizumi in view of Roos. This rejection has not been previously adjudicated.

The request for reconsideration further alleges the new grounds of rejection is based on a serious mischaracterization of the prior art. Such an allegation rises to the level of appealable subject matter not petitionable subject matter.

The Application is being returned to the examiner for consideration of amendment filed October 08, 2010.

John L. LeGuyader, Director
Technology Center 2600
Communications

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ERIC T JONES
REISING ETHINGTON BARNES
KISSELLE LEARMAN & MCCULLOCH
PO BOX 4390
TROY MI 48099-4390

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of	:	
OWEN, et al	:	
Application No. 10/343,135	:	DECISION ON PETITION
Filed: January 28, 2003	:	
Attorney Docket No. 1570.3039.001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 10, 2010. 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 October 11, 2010. *See* MPEP 1215.04. A Notice of Abandonment was mailed April 18, 2011.

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

With respect to item (1): A review of the Office record shows that petitioner failed to submit the proper reply in compliance with 37 CFR 1.114, see the Notice mailed April 18, 2011. Any questions concerning the reply should be directed to the Examiner at (571) 272-3043.
The petition filed June 9, 2011, does not meet the requirements set out in 37 CFR 1.137(b) and cannot be granted.

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.

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

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

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

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

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

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

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

cc: ERIC T. JONES
REISING ETHINGTON P.C.
755 WEST BIG BEAVER ROAD
SUITE 1850
TROY, MI 48084

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TROY MI 48099-4390

In re Application of	:	
OWEN, et al	:	
Application No. 10/343,135	:	ON PETITION
Filed: January 28, 2003	:	
Attorney Docket No. 1570.3039.001	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 13, 2011, 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 10, 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 October 11, 2010. *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, (2) the petition fee of $1620; and (3) the required statement of unintentional delay

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

This application is being referred to Technology Center 2611 for further processing by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane 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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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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NOV 08 2010
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In re Application of	:	
Usui et al.	:	ON REQUEST FOR
Application No. 10/343226	:	RECONSIDERATION OF
Filing or 371(c) Date: 01/30/2003	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
SON-2420	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 2, 2010. Applicants petition for reconsideration of the patent term adjustment calculation to 1889 days, not 850 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon (1) an assertion that the Office erred in calculating a delay of 750 days, and (2) on the basis that the Office will take in excess of three years to issue this patent.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in failing to calculate a delays of 750 days is **DISMISSED**.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), 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**.

On April 2, 2010, this Office mailed a Notice of Allowance and Issue Fee Due, including a 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 is 850 days.

On July 2, 2010, Applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 850 days, as indicated on the Determination of PTA mailed July 2, 2010, to an adjustment of 1889 days. Applicants do not dispute adjustments of 386 days pursuant to 37 CFR 1.702(a)(1), or 1324 days pursuant to 37 CFR 1.702(c), or a reduction of 110 days pursuant to 37 CFR 1.704(b)[2].

[1] PALM records show that the Issue Fee payment was received in the Office on July 2, 2010.
[2] It is noted that the reduction of 110 days pursuant to 37 CFR 1.704(b) overlaps with a reduction of 110 days pursuant to 37 CFR 1.704(c)(3) in connection with the abandonment and revival of the application.

Applicants assert that the Office erred in calculating a reduction of 750 days pursuant to 37 CFR 1.704(c)(8), in connection with the filing of an Information Disclosure Statement ("IDS") on May 27, 2009, after filing a Reply Brief on May 8, 2007.

As to the assertion that the Office erred in calculating a delay of 750 days, Office records reveal that Applicants filed a Notice of Appeal on April 27, 2006. An Examiner's Answer was mailed on March 8, 2007. Applicants filed a Reply Brief on May 8, 2007. Thereafter, Applicants filed an IDS on June 19, 2008, and on May 27, 2009. Pursuant to 37 CFR 1.704(c)(8), the 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, is a failure to engage in reasonable efforts to conclude prosecution. It is undisputed that after filing a response on Reply Brief on May 8, 2007, applicants filed an IDS on June 19, 2008, and on May 27, 2009. The record does not support a conclusion that the IDS's were expressly requested by the examiner. Further, a review of the IDS's filed June 19, 2008, and on May 27, 2009, reveals that neither IDS included the proper § 1.704(d) statement.[3] Specifically, the IDS filed June 19, 2008 was accompanied by the following statement:

> ...[e]ach item of information contained in the this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not <u>more than three months</u> prior to the filing of this Information Disclosure Statement.

Emphasis added.

The IDS filed May 27, 2009 was accompanied by the following statement:

> ...[e]ach item of information contained in the this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not <u>more than three months</u> prior to the filing of this Information Disclosure Statement.

However, the statement required under 37 CFR 1.704(d) must state that:

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[3] Applicants are reminded that 37 CFR 1.704(d) was revised, effective May 24, 2004, as follows:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

This revision requires that the statement include the language "and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement." for the exception to apply. <u>See</u> 69 FR 21704, Apr. 22, 2004.

> [e]ach item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Emphasis added.

On petition, Applicant notes as to the IDS filed May 27, 2009, the following:

> Each item of information contained in the this Information Disclosure Statement was cited first in any communication dated May 8, 2009, from European Patent Office in a counterpart application, European Application No. 09 15 5154. (*See* form PTO/SB/08) attached). [].

Emphasis added.

Applicants provide further as to the May 27, 2009 IDS, that the IDS was filed within thirty days of receipt of the May 8, 2009 communication from the European Patent Office. Further, Applicants argue that the dates on the May 27, 2009 IDS make it unmistakably clear that the May 27, 2009 IDS was filed within thirty days of receipt of the May 8, 2009 communication from the European Patent Office.

Applicants also include with the petition a "Certification of the Timeliness of the Information Disclosure Statement Filed May 27, 2009," wherein applicants provide the following:

> ...[e]ach item of information contained in the May 27, 2009 Information Disclosure Statement, foreign patent documents JP-10-233019 and JP-2001-135021 and non-patent document Extended European Search Report issued May 8, 2009, were first cited in a communication from a foreign patent office, Extended European Search Report issued May 8, 2009 from the European Patent Office, in a counterpart [] application, corresponding European Application No. 09 15 5154, and that this communication was not received by any individual designated by 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of the May 27, 2009 Information Disclosure Statement.

Emphasis supplied.

However, as noted in 69 Fed. Reg. 21704, April 22, 2004,

> *Section 1.704:* Section 1.704(d) is amended to change "cited in a communication" to "first cited in any communication" in order to clarify that the item must have been first cited in any communication from a foreign patent office in a counterpart application instead of merely being cited in such a communication. An applicant who fails to cite an item, within thirty days of receipt by an individual designated in § 1.56(c) of a first communication from a foreign patent office in a counterpart application citing the item,

> and instead files an information disclosure statement, within thirty days of a subsequent communication citing the item, cannot be considered to have acted with reasonable efforts to conclude prosecution of the application.

To reiterate, in order for a paper containing only an IDS not to be considered a failure to engage in reasonable efforts to conclude prosecution, the paper must include the statement that

> [e]ach item of information contained in the information disclosure statement was first cited in <u>any</u> communication from a foreign patent office in a counterpart application <u>and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement</u>.

As noted *supra*, neither the IDS filed June 19, 2008, the IDS filed May 27, 2009, nor the present petition include the proper § 1.704(d) statement. The reduction of 750 days pursuant to 37 CFR 1.704(c)(8) was properly assessed to Applicants. It is also noted that a reduction of 408 days in connection with the IDS filed June 19, 2008 overlaps with the reduction of 750 days in connection with the IDS filed May 27, 2009.

As to the Office's failure to issue the patent within 3 years of the filing date, 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, 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[4].

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[4] 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

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, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, 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. 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).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

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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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Novartis
Corporate Intellectual Property
One Health Plaza 101/2
East Hanover, NJ 07936-1080

In re Patent No. 7,473,761	:
Albert et al.	: DECISION UPON REMAND AND
Issue Date: January 6, 2009	: RECONSIDERATION OF
Application No. 10/343,288	: PATENT TERM ADJUSTMENT
Filed: August 26, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 4-31495A	: TO ISSUE CERTIFICATE OF
Title: Somatostatin Analogs	: 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 one thousand four hundred and fifty-eight (1458) 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 four hundred and fifty-eight(1458) 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 : 7,473,761 B2

DATED : **January 6, 2009** **DRAFT**

INVENTOR(S) : Albert 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 878 days

Delete the phrase "by 878 days" and insert – by 1458 days--

Day : Friday
Date: 8/27/2010

PALM INTRANET

Time: 10:39:14

PTA Calculations for Application: 10/343288			
Application Filing Date:	08/26/2003	PTO Delay (PTO):	953
Issue Date of Patent:	01/06/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	75
Post-Issue Petitions:	0	Total PTA (days):	1458
PTO Delay Adjustment:	580		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	08/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	580		
56.5	12/17/2008	PTA 36 MONTHS			
56	01/06/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
54	12/05/2008	EXPORT TO FINAL DATA CAPTURE			
53	12/05/2008	TC RETURN TO PUBS			
52	12/04/2008	DISPATCH TO FDC			
51	12/04/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
50	11/25/2008	ISSUE FEE PAYMENT VERIFIED			
49	12/03/2008	WORKFLOW - QUERY REQUEST - FINISH			
48	11/26/2008	FINISHED INITIAL DATA CAPTURE			
47	12/01/2008	WORKFLOW - QUERY REQUEST - BEGIN			
46	11/25/2008	ISSUE FEE PAYMENT RECEIVED			
45	10/06/2008	EXPORT TO INITIAL DATA CAPTURE			
43	10/02/2008	MAIL NOTICE OF ALLOWANCE			
42	09/30/2008	ISSUE REVISION COMPLETED			
41	09/30/2008	DOCUMENT VERIFICATION			
40	09/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	09/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
38	09/29/2008	EXAMINER'S AMENDMENT COMMUNICATION			
37	09/29/2008	NOTICE OF ALLOWABILITY			
35	07/24/2008	DATE FORWARDED TO EXAMINER			
34	07/07/2008	AMENDMENT AFTER FINAL REJECTION			
33	06/23/2008	MAIL FINAL REJECTION (PTOL - 326)			
32	06/19/2008	FINAL REJECTION			

31	04/17/2008	DATE FORWARDED TO EXAMINER			
30	03/27/2008	RESPONSE AFTER NON-FINAL ACTION		75	28
29	03/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	10/12/2007	MAIL NON-FINAL REJECTION			
27	10/11/2007	NON-FINAL REJECTION			
26	08/26/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	08/06/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	08/06/2007	REFERENCE CAPTURE ON IDS			
23	08/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	21
22	08/22/2007	DATE FORWARDED TO EXAMINER			
21	08/06/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
20	08/06/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	08/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/06/2007	MAIL RESTRICTION REQUIREMENT	953		-1
15	06/01/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
14	05/30/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	04/20/2007	TRANSFER INQUIRY TO GAU			
12.7	08/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/14/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	08/26/2003	REFERENCE CAPTURE ON IDS			
8	01/14/2004	CLEARED BY OIPE CSR			
7	08/26/2003	371 COMPLETION DATE			
6	09/12/2003	APPLICATION DISPATCHED FROM OIPE			
5	09/12/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	08/26/2003	ADDITIONAL APPLICATION FILING FEES			
3	08/26/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Novartis
Corporate Intellectual Property
One Health Plaza 101/2
East Hanover, NJ 07936-1080

In re Patent No. 7,473,761
Albert et al.
Issue Date: January 6, 2009
Application No. 10/343,288
Filed: August 26, 2003
Attorney Docket No. 4-31495A
Title: Somatostatin Analogs

: LETTER VACATING DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This letter is advising patentee that the decision mailed August 27, 2010 is herby **VACATED** and the Office will not issue a certificate of correction in the amount of 1458 days. The Office will re-adjust the PAIR calculation to reflect the pre-decision total of 878 days.

On January 6, 2009, the Office issued patent number 7,473,761 and granted 878 days of patent term adjustment. On January 26, 2009, patentee pursuant to 37 CFR 1.705(d) timely filed a request for reconsideration of patent term adjustment seeking a PTA determination of 1376 days. On June 20, 2009, patentee timely commenced a civil action pursuant to 35 USC § 154(b)(4)(A) seeking 1458 days of patent term adjustment. On March 4, 2010, patentee also submitted a request for PTA reconsideration under the Wyeth interim procedure. On August 27, 2010, the Office mailed a decision granting patentee's request for reconsideration of patent term adjustment and awarded the 1458 days requested in the civil complaint.

As of August 27, 2010, the Office erred in issuing the decision granting the PTA reconsideration because the Office errantly believed that district court remanded the civil suit to the Office and believed that the district court returned jurisdiction of the matter to the Office. Since the civil suit

had not been remanded, the Office is hereby vacating the decision.

The Office apologizes for any inconveniences the premature decision may have caused. Once the civil suit has been remanded, the Office will then act upon the order of the district court.

The Office will not issue the certificate of correction that resulted from the decision mailed August 27, 2010.

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

cc: PTA PAIR calculation

Day : Friday
Date: 10/8/2010

PALM INTRANET

Time: 12:33:44

PTA Calculations for Application: 10/343288			
Application Filing Date:	08/26/2003	PTO Delay (PTO):	953
Issue Date of Patent:	01/06/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	75
Post-Issue Petitions:	0	Total PTA (days):	878
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	10/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		1160	
64	10/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	580		
62	08/27/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
61	08/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	580		
56.5	12/17/2008	PTA 36 MONTHS			
56	01/06/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
54	12/05/2008	EXPORT TO FINAL DATA CAPTURE			
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In re Patent No. 7,473,761	:
Albert et al.	: DECISION UPON REMAND AND
Issue Date: January 6, 2009	: RECONSIDERATION OF
Application No. 10/343,288	: PATENT TERM ADJUSTMENT
Filed: August 26, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 4-31495A	: TO ISSUE CERTIFICATE OF
Title: Somatostatin Analogs	: CORRECTION
	:

This decision is in response to the letter mailed October 8th, 2010 vacating the August 27th, 2010 decision because such decision was premature to the grant of the remand by the Court. The Office informed patentee that once remand of the application has occurred, the Office will reconsider the patent term adjustment. The Office is now reconsidering the patent term adjustment.

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 four hundred and sixty (1460) 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 four hundred and sixty (1460) 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 : 7,473,761 B2

DATED : **January 6, 2009** **DRAFT**

INVENTOR(S) : Albert et al.

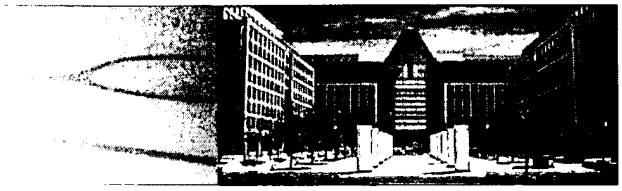
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 878 days

Delete the phrase "by 878 days" and insert – by 1460 days--

Patent Term Adjustments



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10343288 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10343288

Application Filing Date	08/26/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	01/06/2009	Non-Overlapping USPTO Delays:	953
A Delays	953	PTO Manual Adjustment	582
B Delays	0	Applicant Delay (APPL)	75
C Delays	0	Total PTA (days)	1460

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
69	08/30/2011		P028	Adjustment of PTA Calculation by PTO	582		0
65	10/08/2010		P028	Adjustment of PTA Calculation by PTO		1160	0
64	10/08/2010		P028	Adjustment of PTA Calculation by PTO	580		0
62	08/27/2010		P026	Record a Petition Decision of Granted for Patent Term Adjustment after Issue			0
61	08/27/2010		P028	Adjustment of PTA Calculation by PTO	580		0
56	01/06/2009		PTAC	Patent Issue Date Used in PTA Calculation			0
56.5	12/17/2008	08/26/2006	PTA36M	PTA 36 Months	0		0
54	12/05/2008		EFDC	Export to Final Data Capture			0
53	12/05/2008		TCPB	Printer Rush- No mailing			0
52	12/04/2008		D1935	Dispatch to FDC			0
51	12/04/2008		PILS	Application Is Considered Ready for Issue			0
49	12/03/2008		QURF	Workflow - Query Request - Finish			0
47	12/01/2008		QURI	Workflow - Query Request - Begin			0
48	11/26/2008		FIDC	Finished Initial Data Capture			0
50	11/25/2008		N084	Issue Fee Payment Verified			0
46	11/25/2008		IFEE	Issue Fee Payment Received			0
45	10/06/2008		EIDC	Export to Initial Data Capture			0
43	10/02/2008		MN/=.	Mail Notice of Allowance			0
42	09/30/2008		IREV	Issue Revision Completed			0
41	09/30/2008		DVER	Document Verification			0
40	09/29/2008		N/=.	Notice of Allowance Data Verification Completed			0
39	09/29/2008		DOCK	Case Docketed to Examiner in GAU			0
38	09/29/2008		EX.A	Examiner's Amendment Communication			0
37	09/29/2008		CNTA	Allowability Notice			0
35	07/24/2008		FWDX	Date Forwarded to Examiner			0
34	07/07/2008		A.NE	Amendment after Final Rejection			0
33	06/23/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
32	06/19/2008		CTFR	Final Rejection			0
31	04/17/2008		FWDX	Date Forwarded to Examiner			0
30	03/27/2008	01/12/2008	A...	Response after Non-Final Action		75	28
29	03/27/2008		XT/G	Request for Extension of Time - Granted			0
28	10/12/2007		MCTNF	Mail Non-Final Rejection			0
27	10/11/2007		CTNF	Non-Final Rejection			0
22	08/22/2007		FWDX	Date Forwarded to Examiner			0
25	08/06/2007		IDSC	Information Disclosure Statement considered			0
24	08/06/2007		RCAP	Reference capture on IDS			0
23	08/06/2007	08/06/2007	M844	Information Disclosure Statement (IDS) Filed			21
21	08/06/2007		ELC.	Response to Election / Restriction Filed			0
20	08/06/2007		XT/G	Request for Extension of Time - Granted			0
17	08/06/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
16	06/06/2007	10/26/2004	MCTRS	Mail Restriction Requirement	953		-1
15	06/01/2007		CTRS	Restriction/Election Requirement			0
14	05/30/2007		DOCK	Case Docketed to Examiner in GAU			0
13	04/20/2007		TI1050	Transfer Inquiry to GAU			0
11	03/14/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
8	01/14/2004		L194	Cleared by OIPE CSR			0
6	09/12/2003		OIPE	Application Dispatched from OIPE			0
5	09/12/2003		M903	Notice of DO/EO Acceptance Mailed			0
26	08/26/2003		IDSC	Information Disclosure Statement considered			0
12.7	08/26/2003		M844	Information Disclosure Statement (IDS) Filed			0
10	08/26/2003		RCAP	Reference capture on IDS			0
7	08/26/2003		371COMP	371 Completion Date			0
4	08/26/2003		ADDFLFEE	Additional Application Filing Fees			0
3	08/26/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING, INC
PO BOX 5312
PRINCETON, NJ 08540

MAILED
NOV 24 2010
OFFICE OF PETITIONS

In re Application of
Eric Diehl
Application No. 10/343,491
Filed: June 4, 2003
Attorney Docket No. PF000078

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 16, 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 June 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 amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

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 2436 for appropriate action by the Examiner in the normal course of business on the reply received October 7, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES W CALKINS
KILPATRICK STOCKTON
1001 WEST FOURTH STREET
WINSTON- SALEM NC 27101

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,732,484	:	ON PETITION
Issue Date: June 8, 2010	:	
Application No. 10/343,587	:	
Filed: January 31, 2003	:	
Attorney Docket No. 031826.0005	:	

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.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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Sterne, Kessler, Goldstein, Fox PLLC
1100 New York Avenue NW
Washington DC 20005

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,569,351	:
Nakamura et al.	: DECISION UPON REMAND AND
Issue Date: August 4, 2009	: RECONSIDERATION OF
Application No. 10/343,733	: PATENT TERM ADJUSTMENT
Filed: May 19, 2003	: AND NOTICE OF INTENT
Attorney Docket No.	: TO ISSUE CERTIFICATE OF
2144.0050000/RWE	: CORRECTION
Title: A P53 Dependent	:
Apoptosis-Associated Gene and	
Protein	

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 four hundred and sixty-five(465) 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 four hundred and sixty-five (465) 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 : 7,569,351

DATED : August 4, 2009 **DRAFT**

INVENTOR(S) : Nakamura 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 25 days

Delete the phrase "by 25 days" and insert – by 465 days--

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10343733 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10343733

Application Filing Date	05/19/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	08/04/2009	Non-Overlapping USPTO Delays:	377
A Delays	333	PTO Manual Adjustment	440
B Delays	44	Applicant Delay (APPL)	352
C Delays	0	Total PTA (days)	465

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
110	08/25/2011		P028	Adjustment of PTA Calculation by PTO	440		0
105	12/18/2009		P026	Record a Petition Decision of Granted for Patent Term Adjustment after Issue			0
98	08/04/2009		PTAC	Patent Issue Date Used in PTA Calculation			0
98.5	07/15/2009	05/19/2006	PTA36M	PTA 36 Months	44		0
97	07/02/2009		EFDC	Export to Final Data Capture			0
96	07/01/2009		D1935	Dispatch to FDC			0
95	06/30/2009		PILS	Application Is Considered Ready for Issue			0
94	06/29/2009		N084	Issue Fee Payment Verified			0
93	06/29/2009		SMAL	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27			0
92	06/29/2009		IFEE	Issue Fee Payment Received			0
89	05/27/2009		FIDC	Finished Initial Data Capture			0
88	04/21/2009		CRFT	Sequence Forwarded to Pubs on Tape			0
87	04/06/2009		EIDC	Export to Initial Data Capture			0
86	03/31/2009		MN/=.	Mail Notice of Allowance			0
83	03/26/2009		N/=.	Notice of Allowance Data Verification Completed			0
82	03/26/2009		EX.A	Examiner's Amendment Communication			0
81	03/26/2009		CNTA	Allowability Notice			0
85	03/25/2009		IREV	Issue Revision Completed			0
84	03/25/2009		DVER	Document Verification			0
79	03/17/2009		FWDX	Date Forwarded to Examiner			0
77	03/06/2009		CRFE	CRF Is Good Technically / Entered into Database			0
80	02/10/2009		TFPR	Certified Translation of Foreign Priority Document			0
78	02/10/2009		A...	Response after Non-Final Action			0
76	11/10/2008		MCTNF	Mail Non-Final Rejection			0
75	11/10/2008		CTNF	Non-Final Rejection			0
71	10/15/2008		FWDX	Date Forwarded to Examiner			0
72	09/22/2008		N/AP	Notice of Appeal Filed			0
70	09/19/2008	06/20/2008	A.NE	Amendment after Final Rejection		91	61
69	09/19/2008		XT/G	Request for Extension of Time - Granted			0
68	09/17/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
67	09/15/2008		CTAV	Advisory Action (PTOL-303)			0
66	09/03/2008		FWDX	Date Forwarded to Examiner			0
65	08/20/2008		A.NE	Amendment after Final Rejection			0
64	08/20/2008		XT/G	Request for Extension of Time - Granted			0
63	08/20/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
62	08/15/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
61	03/20/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
60	03/17/2008		CTFR	Final Rejection			0
59	01/08/2008		FWDX	Date Forwarded to Examiner			0
58	12/20/2007	11/24/2007	A...	Response after Non-Final Action		26	56
57	12/20/2007		XT/G	Request for Extension of Time - Granted			0
56	08/24/2007		MCTNF	Mail Non-Final Rejection			0
55	08/20/2007		CTNF	Non-Final Rejection			0
54	06/12/2007		FWDX	Date Forwarded to Examiner			0
52	06/12/2007		FWDX	Date Forwarded to Examiner			0
50	06/12/2007		ABN9	Disposal for a RCE / CPA / R129			0
53	06/11/2007		AMPR	RCE- AF Processed			0
51	05/31/2007	03/11/2007	RCEX	Request for Continued Examination (RCE)		81	42
49	05/31/2007		XT/G	Request for Extension of Time - Granted			0
48	05/31/2007		BRCE	Workflow - Request for RCE - Begin			0
47	05/04/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
46	05/01/2007		CTAV	Advisory Action (PTOL-303)			0
45	04/19/2007		FWDX	Date Forwarded to Examiner			0
44	04/11/2007		A.NE	Amendment after Final Rejection			0

43	04/11/2007		XT/G	Request for Extension of Time - Granted			0
42	12/11/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
41	12/08/2006		CTFR	Final Rejection			0
40	11/28/2006		DOCK	Case Docketed to Examiner in GAU			0
38	11/16/2006		FWDX	Date Forwarded to Examiner			0
39	10/27/2006		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
37	10/27/2006	07/27/2006	A...	Response after Non-Final Action		92	32
36	10/27/2006		XT/G	Request for Extension of Time - Granted			0
35	10/23/2006		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
34	10/11/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
33	07/06/2006		DOCK	Case Docketed to Examiner in GAU			0
32	04/27/2006		MCTNF	Mail Non-Final Rejection			0
31	04/17/2006		CTNF	Non-Final Rejection			0
29	03/10/2006		DOCK	Case Docketed to Examiner in GAU			0
28	03/08/2006		FWDX	Date Forwarded to Examiner			0
27	02/27/2006	12/27/2005	A...	Response after Non-Final Action		62	24
26	02/27/2006		XT/G	Request for Extension of Time - Granted			0
25	01/27/2006		DOCK	Case Docketed to Examiner in GAU			0
24	09/27/2005		MCTNF	Mail Non-Final Rejection			0
23	09/23/2005		CTNF	Non-Final Rejection			0
22	07/22/2005		FWDX	Date Forwarded to Examiner			0
21	07/14/2005		ELC.	Response to Election / Restriction Filed			0
18	06/28/2005		DOCK	Case Docketed to Examiner in GAU			0
20	06/17/2005		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
17	06/17/2005	07/19/2004	MCTRS	Mail Restriction Requirement	333		-1
16	06/13/2005		CTRS	Restriction/Election Requirement			0
15	04/29/2005		DOCK	Case Docketed to Examiner in GAU			0
14	05/21/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
10	11/17/2003		L194	Cleared by OIPE CSR			0
9	11/09/2003		DOCK	Case Docketed to Examiner in GAU			0
8	09/08/2003		OIPE	Application Dispatched from OIPE			0
7	09/08/2003		M903	Notice of DO/EO Acceptance Mailed			0
30	06/24/2003		IDSC	Information Disclosure Statement considered			0
12	06/24/2003		RCAP	Reference capture on IDS			0
11.7	06/24/2003		M844	Information Disclosure Statement (IDS) Filed			0
11	06/24/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
6	05/19/2003		ADDFLFEE	Additional Application Filing Fees			0
5	05/19/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0

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MANNAVA & KANG, P.C.
11240 WAPLES MILL ROAD
Suite 300
FAIRFAX VA 22030

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,732,450	:	
Issue Date: June 8, 2010	:	
Application No. 10/343,984	:	ON PETITION
Filed: February 5, 2003	:	
Attorney Docket No. P55432/006	:	

This is a decision on the petition filed July 30, 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) 272-6842. 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.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120321

DATE : March 21, 2012

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7879592

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

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Paper No.

JONATHAN P. O'BRIEN, PH.D.
HONIGMAN MILLER SCHWARTZ & COHN LLP
350 EAST MICHIGAN AVENUE
SUITE 300
KALAMAZOO MI 49007

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Babine et al.	:	
Application Number: 10/344,112	:	ON APPLICATION FOR
Filing or 371(c) Date: 12/17/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
125805/00-131/00079	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed on May 25, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1237 days, not 373 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The application for patent term adjustment is **GRANTED to the extent indicated**.

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). 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 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 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).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 148 days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On February 26, 2010, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed. The patent term adjustment at the time of the mailing of the Notice of Allowance was 373 days (586 days of Office delay and 213 days of applicant delay). This application for patent term adjustment was timely filed with or prior to payment of the issue fee.[2]

Applicants disclose that an additional period of applicant delay of 225 days should be entered in connection with the reply filed on December 17, 2004 in response to the Notification of Missing Requirements Under 35 U.S.C. 371 In The United States Designated/Elected Office (DO/EO/US) ("Notification") mailed on February 6, 2004.

Applicants' argument is persuasive. 37 CFR 1.704(b) states 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

[2] PALM records indicate that the issue fee was paid on May 25, 2010.

Office action or notice has no effect on the three-month period set forth in this paragraph.

On February 6, 2004, the Notification was mailed, requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b), and a surcharge for providing the oath or declaration later than 30 months from the priority date. On August 17, 2004, the surcharge was filed. On December 17, 2004, three months and 225 days after the date the Notification was mailed, the declaration in compliance with 37 CFR 1.497(a) and (b) was filed. Accordingly, entry of a period of an additional period of reduction of 225 days for applicant delay is warranted.

The patent term adjustment as of the mailing of the notice of allowance has been updated to 148 days (586 days of Office delay and 438 (213 + 225) days of applicant delay).

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby 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 if applicable, 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).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

Encl: Updated PAIR calculation

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/344,112

Filing or 371(c) Date:	12-17-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	586
A Delays:	586	PTO Manual Adjustments:	-225
B Delays:	0	Applicant Delays:	213
C Delays:	0	Total PTA Adjustments:	148

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
139	09-21-2010	Adjustment of PTA Calculation by PTO	450		0
138	09-21-2010	Adjustment of PTA Calculation by PTO		225	0
137	09-21-2010	Adjustment of PTA Calculation by PTO		225	0
136	09-21-2010	Adjustment of PTA Calculation by PTO		225	0
128	02-26-2010	Mail Notice of Allowance			0
127	02-16-2010	CRF Is Good Technically / Entered into Database			0
126	01-22-2010	Preliminary Amendment			0
125	01-22-2010	Electronic Information Disclosure Statement		45	92
124	01-22-2010	Electronic Information Disclosure Statement			0
123	01-22-2010	Information Disclosure Statement (IDS) Filed			0
122	12-09-2009	Reference capture on IDS			0
121	12-09-2009	Information Disclosure Statement (IDS) Filed			0
120	04-08-2009	Information Disclosure Statement (IDS) Filed		16	73
117	02-02-2010	Issue Revision Completed			0
116	02-02-2010	Notice of Allowance Data Verification Completed			0
115	02-02-2010	Case Docketed to Examiner in GAU			0
114	02-02-2010	Document Verification			0
113	01-28-2010	Notice of Allowability			0
112	01-22-2010	Information Disclosure Statement considered			0
111	01-22-2010	Information Disclosure Statement considered			0
110	01-22-2010	Information Disclosure Statement (IDS) Filed			0
109	01-22-2010	Information Disclosure Statement (IDS) Filed			0
108	12-09-2009	Information Disclosure Statement considered			0
107	12-09-2009	Information Disclosure Statement considered			0
106	12-09-2009	Information Disclosure Statement considered			0
105	12-09-2009	Information Disclosure Statement considered			0
104	12-09-2009	Information Disclosure Statement considered			0
103	12-09-2009	Information Disclosure Statement considered			0
101	01-05-2010	CRF Is Good Technically / Entered into Database			0
100	12-14-2009	Preliminary Amendment			0
99	12-09-2009	Information Disclosure Statement (IDS) Filed			0
98	12-09-2009	Information Disclosure Statement (IDS) Filed			0
97	12-09-2009	Information Disclosure Statement (IDS) Filed			0
96	12-09-2009	Information Disclosure Statement (IDS) Filed			0
95	12-09-2009	Information Disclosure Statement (IDS) Filed			0
94	12-09-2009	Information Disclosure Statement (IDS) Filed			0
93	12-15-2009	Date Forwarded to Examiner			0
92	12-08-2009	Response after Non-Final Action			0
91	11-16-2009	Mail Examiner Interview Summary (PTOL - 413)			0
90	11-09-2009	Examiner Interview Summary Record (PTOL - 413)			0
89	10-20-2009	Correspondence Address Change			0

88	09-25-2009	Correspondence Address Change			0
87	09-15-2009	Mail Miscellaneous Communication to Applicant			0
86	09-14-2009	Miscellaneous Communication to Applicant - No Action Count			0
85	09-08-2009	Mail Non-Final Rejection	47		73
84	09-02-2009	Non-Final Rejection			0
83	09-02-2009	Mail Miscellaneous Communication to Applicant			0
82	08-31-2009	Miscellaneous Communication to Applicant - No Action Count			0
81	04-08-2009	Information Disclosure Statement considered			0
79	04-08-2009	Information Disclosure Statement considered			0
78	03-23-2009	Information Disclosure Statement considered			0
77	04-08-2009	Information Disclosure Statement (IDS) Filed			0
76	03-23-2009	Reference capture on IDS			0
75	03-23-2009	Information Disclosure Statement (IDS) Filed			0
74	08-06-2009	Date Forwarded to Examiner			0
73	03-23-2009	Response after Non-Final Action			0
71	04-08-2009	Information Disclosure Statement (IDS) Filed			0
70	04-08-2009	Information Disclosure Statement (IDS) Filed			0
69	03-23-2009	Information Disclosure Statement (IDS) Filed			0
68	03-24-2009	Change in Power of Attorney (May Include Associate POA)			0
67	03-20-2009	Correspondence Address Change			0
66	02-19-2009	Mail Examiner Interview Summary (PTOL - 413)			0
65	02-11-2009	Examiner Interview Summary Record (PTOL - 413)			0
64	12-23-2008	Mail Non-Final Rejection			0
63	12-22-2008	Non-Final Rejection			0
62	09-05-2008	Information Disclosure Statement considered			0
59	10-17-2008	Rule 47 / 48 Correction of Inventorship Papers Filed			0
58	09-05-2008	Reference capture on IDS			0
57	09-05-2008	Information Disclosure Statement (IDS) Filed		0	55
56	10-10-2008	Date Forwarded to Examiner			0
55	09-05-2008	Response after Non-Final Action		91	52
54	09-05-2008	Request for Extension of Time - Granted			0
53	09-05-2008	Information Disclosure Statement (IDS) Filed			0
52	03-06-2008	Mail Non-Final Rejection			0
51	02-28-2008	Non-Final Rejection			0
49	01-10-2008	Information Disclosure Statement considered			0
45	01-10-2008	Reference capture on IDS			0
44	01-10-2008	Information Disclosure Statement (IDS) Filed		0	42
43	02-07-2008	Date Forwarded to Examiner			0
42	01-10-2008	Response to Election / Restriction Filed		61	38
41	01-10-2008	Request for Extension of Time - Granted			0
40	02-04-2008	Correspondence Address Change			0
39	01-10-2008	Information Disclosure Statement (IDS) Filed			0
38	08-10-2007	Mail Restriction Requirement	539		10
37	08-08-2007	Requirement for Restriction / Election			0
36	07-19-2007	Case Docketed to Examiner in GAU			0
33	05-01-2007	Miscellaneous Incoming Letter			0
32	04-28-2006	Correspondence Address Change			0
31	04-28-2006	Change in Power of Attorney (May Include Associate POA)			0
30	12-05-2005	Correspondence Address Change			0
29	12-05-2005	Change in Power of Attorney (May Include Associate POA)			0
27	08-10-2005	Correspondence Address Change			0
26	08-10-2005	Change in Power of Attorney (May Include Associate POA)			0

25	04-27-2005	IFW TSS Processing by Tech Center Complete	0
24	04-27-2005	Case Docketed to Examiner in GAU	0
22	12-17-2004	Reference capture on IDS	0
18	04-06-2005	Correspondence Address Change	0
17	04-06-2005	Change in Power of Attorney (May Include Associate POA)	0
16	02-18-2005	Cleared by OIPE CSR	0
15	02-18-2005	Cleared by OIPE CSR	0
14	02-18-2005	Cleared by OIPE CSR	0
13	02-18-2005	Cleared by OIPE CSR	0
12	02-18-2005	Cleared by OIPE CSR	0
11	02-18-2005	Cleared by OIPE CSR	0
10	12-17-2004	371 Completion Date	0
9	02-09-2005	Application Dispatched from OIPE	0
8	02-09-2005	Notice of DO/EO Acceptance Mailed	0
7	12-17-2004	Additional Application Filing Fees	0
6	12-17-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0

Close Window

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/344,226	08/01/2003	Thomas Augustinus Maria Beumer	9310-69	5696

20792 7590 02/14/2011
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

EXAMINER
HINES, JANA A

ART UNIT	PAPER NUMBER
1645	

MAIL DATE	DELIVERY MODE
02/14/2011	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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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of:	
Beubmer et al.	PETITION DECISION
Serial No.: 10/344,226	
Filed: February 10, 2003	
Attorney Docket No.: **9310-69**	

This is in response to the petition filed by applicants under 37 CFR § 1.181(a) on June 21, 2010, requesting that the ground of rejection set forth in the Examiner's Answer be designed as a New Grounds of Rejection, pursuant to MPEP § 1207.03 (IV). The delay in deciding this petition is regretted but it has only just been brought to the attention of the deciding Official.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

On August 14, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time this Office action was mailed, claims 21, 25, 29-32, 35, 43, 46, 57-59 and 61-65 were pending and rejected in the application. In this action, the examiner rejected claims 21, 25, 29-32, 35, 43, 46, 57-59 and 61-65 under 35 U.S.C. 103(a) as being unpatentable over Kopf-Sill et al. in view of Wilding et al. Claim 61 was also objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

In reply to the final Office action of August 14, 2009, applicants filed a response on November 6, 2009. The response submitted by applicants was a pre-appeal brief request for review. Claims 60 and 61 were also cancelled.

On November 6, 2009, a Notice of Appeal was also filed.

On January 12, 2010, applicants filed an Appeal Brief, appealing to the Board of Appeals from the examiner regarding the examiner's rejection of the claims.

On April 19, 2010, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner again rejected claims 21, 25, 29-32, 35, 43, 46, 57-59 and 62-65 under 35 U.S.C. 103(a) as being unpatentable over Kopf-Sill et al. in view of Wilding et al.

In response thereto, appellants filed this petition under 37 CFR § 1.181(a) on June 21, 2010, requesting that the ground of rejection set forth in the Examiner's Answer be designed as a New Grounds of Rejection, pursuant to MPEP § 1207.03 (IV).

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on June 21, 2010, appellants argue that the Examiner's Answer mailed on April 19, 2010 contained a new ground of rejection. Appellants point out that a "new reference, U.S. Patent No. 6,046,056 to Parce et al. (hereinafter the '056 patent), is cited in the Examiner's Answer *(See* Examiner's Answer, page 6). This reference is cited by the Examiner not simply to clarify arguments made in previous Office Actions but rather the Examiner raises it for the purpose of describing a continuous flow assay system, an embodiment not described directly in either of the cited references of record, Kopf-Sill et al. and Wilding et al. Kopf-Sill et al. incorporates the '056 patent (as U.S. Patent Application No. 08/843,212) by reference in a paragraph describing the types of materials that can be used to manufacture the substrate for their microfluidic devices (Kopf-Sill et al., col. 4, lines 8-14)."

Appellants' point on the above issue is well-taken and persuasive. A detailed review of the Examiner's Answer shows that the examiner did set forth a new reference on page 6 of the Examiner's Answer. Consequently, appellants have not been provided a fair opportunity to carefully consider and respond to this new reference included in the Examiner's Answer.

It is noted that pursuant to M.P.E.P. §1207.03 (III):

> *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).*

It is thus decided that the Examiner's Answer of April 19, 2010 indeed introduced a new ground of rejection. A new ground of rejection is permissible in an Examiner's Answer; however, an

Examiner's Answer containing a new ground of rejection must adhere to the provisions set forth in the MPEP concerning the placement of such new grounds of rejection in an Examiner's Answer (MPEP § 1207.03 I-III). Specifically, the new ground of rejection set forth by the examiner in the Examiner's Answer must 1) be approved by a Technology Center Director or designee, 2) specifically identify the new ground of rejection as a 'new ground of rejection,' and 3) provide applicants a two-month time period to reply to the new rejection set forth in the Examiner's answer (see MPEP § 1207.03 (I) for guidance).

Because the examiner set forth a new ground of rejection in the Examiner's Answer and because the examiner did not properly adhere to the requirements for setting forth a new ground of rejection in the Examiner's Answer as set forth above, the Examiner's Answer of April 19, 2010 was improper and is hereby VACATED.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner to either issue a corrected Examiner's Answer adhering to the provisions set forth in MPEP § 1207.03 (I) for introducing a new ground of rejection in an Examiner's Answer; by issuing a corrected Examiner's Answer omitting the new ground of rejection identified herein; or alternatively, to reopen prosecution to set forth said new ground of rejection.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

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DEC 12 2011
OFFICE OF PETITIONS

CALEB TECHNOLOGY CORPORATION
23935 Madison Street
Torrance CA 90505

In re Patent No. 7,250,234	:	
Ferla et al.	:	
Issue Date: July 31, 2007	:	DECISION DISMISSING PETITION
Application No. 10/344,332	:	
Filed: February 10, 2003	:	
For: **LITHIUM BATTERY WITH**	:	
RETAINED GEL-ELECTROLYTE	:	

This is a decision on the "PETITION TO ACCEPT AN UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT," filed November 14, 2011.

Preliminarily, it is noted that the above-identified patent issued to assignee Caleb Technology Corporation, and this assignee filed the instant petition. Thus, notwithstanding a recorded security agreement/assignment to Leon A. Chiu, it appears that petitioner is a proper party within the meaning of 37 CFR 1.378(d) to file the instant petition. **Petitioner must advise the Office if the conclusion that they are either the assignee, or other party in interest, is incorrect. Any renewed petition must be filed by a proper party.**

Receipt of the request by assignee to change the correspondence address is acknowledged and made of record.

The patent issued July 31, 2007. The grace period for paying the 3-½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on July 31, 2011, with no payment received.

Petitioner states that the delay in paying the maintenance fee is unavoidable as: The reminder notice was sent by mistake to someone who no longer works for them, and then, it was forwarded

too close to the expiration date of July 31, 2011. Nonetheless, patentee promptly sent a $555 maintenance fee payment to the USPTO on July 29, 2011. However, the payment was first cashed then credited back with a notice that the maintenance of the patent was denied for not making the payment timely. The petition includes payment of $1265, including $700 for the surcharge where the delay in payment of the maintenance fee is unavoidable; and $565, the new rate for the first maintenance fee for a small entity.

STATUTES, RULES AND REGULATIONS

35 U.S.C. § 41(c)(1) states that:

> The Director may accept the delayed payment of any maintenance fee required ... after the six month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

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.

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. 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 Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 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, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

OPINION

The patent issued on July 31, 2007. The window for paying the first maintenance fee was open from July 31, 2010 to July 31, 2011. (As July 31, 2011 fell on a Sunday, patentee had until Monday, August 1, 2011 to timely pay the maintenance fee with late surcharge). Petitioner attributes the delay in paying the maintenance fee, in part, to not receiving the maintenance fee reminder. In addition, petitioner indicates that a check for the maintenance fee was sent to the Office on July 29, 2011, prior to the expiration of the grace period, but for reasons unclear to patentee the Office cashed then refunded as the fee was determined to be untimely filed. In support of the petition, petitioner submits a copy of the front and back of the check sent to the Office on July 29, 2011; a copy of the July 29, 2011 letter transmitting the check to the Office; and a copy of their ledger, showing refund of the $555.

To avoid expiration of the patent, payment of the first maintenance fee of $490 and the late surcharge of $65 had to be considered received by the Office no later than Monday, August 1, 2011. Petitioner has not submitted proof that the payment of $555 said to be sent July 29, 2011 (by mail from California) was received in the Office by Monday, August 1, 2011. Nor has petitioner submitted proof that the payment was sent via certificate of mailing under 37 CFR 1.8 or via USPS Express Mail post office to addressee service under 37 CFR 1.10 in a manner to be considered timely filed. A review of the copy of the July 29, 2011 letter transmitting the check to the Office does not show that patentee is entitled to the benefit of 37 CFR 1.8 or 1.10 to have the correspondence considered timely filed as mailed or deposited on July 29, 2011. No maintenance fee payment considered timely filed, this patent is properly considered expired.

Further, petitioner has not met his burden of establishing that the delay in payment of the maintenance fee was unavoidable. As 35 U.S.C. 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In this instance, petitioner fails to show that reasonable steps were taken to ensure the timely payment of the maintenance fee. Petitioner fails to show that there was a system in place to ensure timely payment of the maintenance. There is no indication that patentee had the fee docketed or otherwise scheduled for timely payment. Absent receipt of the reminder letter, it appears patentee had no means of monitoring the due date for payment of the maintenance fee. The absence of steps in

place to ensure timely payment of the maintenance fee precludes acceptance based on unavoidable delay.

Further, it is of no significance to the question of unavoidable delay that the maintenance fee reminder was mailed to the former counsel as the failure to receive a maintenance fee reminder is not unavoidable delay. As stated in MPEP 2540 and 2590, in view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, supra. See also Final Rule entitled "Final Rules for Patent Maintenance Fees," published in the Federal Register at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the Official Gazette at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

> Under the statutes and rules, the Office has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee is due. It is solely the responsibility of the patentee to ensure that the maintenance fee is paid timely to prevent expiration of the patent. The failure to receive the reminder notice will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. The Office will attempt to assist patentees through the mailing of a Maintenance Fee Reminder in the grace period. However, the failure to receive a Maintenance Fee Reminder will not relieve the patentee of the obligation to timely pay the appropriate maintenance fee to prevent expiration of the patent, nor will it constitute unavoidable delay if the patentee seeks to reinstate the patent under 37 CFR 1.378(b). See In re Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988), aff 'd sub nom. 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).

Accordingly, it cannot be concluded that the failure to pay the maintenance fee was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).

CONCLUSION

For the reasons set forth above, it is concluded that petitioner has not met his burden of showing that the delay in paying the maintenance fee was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).

In view thereof, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $400 petition fee set forth in § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Accordingly, on request for reconsideration, it is extremely important the petitioner supply any and all relevant information and documentation in order to meet his burden of showing unavoidable delay.

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. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington DC 20231. A copy of the last decision rendered should accompany the request for refund).

Petitioner is not precluded from requesting reconsideration based on unintentional delay. Such a request may be made within 24 months of the expiration of the patent (i.e., by July 31, 2013). See 37 CFR 1.378(c) and (e).

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

CALEB TECHNOLOGY CORPORATION
23935 Madison Street
Torrance CA 90505

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Patent No. 7,250,234 :
Ferla et al. :
Issue Date: July 31, 2007 : DECISION ON PETITION
Application No. 10/344,332 :
Filed: February 10, 2003 :
For: **LITHIUM BATTERY WITH** :
RETAINED GEL-ELECTROLYTE :

This is a decision on the "Petition on Unintentional Delay of Maintenance Fee Payment" filed December 19, 2011.

By decision mailed December 12, 2011, a PETITION TO ACCEPT AN UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT under 37 CFR 1.378(b) was dismissed. Patentee did not meet their burden of establishing that the delay was unavoidable.

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

The patent issued July 31, 2007. The grace period for paying the 3-½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on July 31, 2011, with no payment received.

This petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee ($565), the surcharge for accepting an unintentionally delayed maintenance fee after expiration ($1640), and a statement that the delay in payment of the maintenance fee was unintentional. These fees were accepted at the reduced small entity rate, as the fees were accompanied by petitioner's

assertion of having made a determination of continued entitlement to pay small entity fees, pursuant to new 37 CFR 1.27(g)(1), effective September 8, 2000.

Accordingly, 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 related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
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)
6715261	2004-04-06	10345049	2003-01-14	8403.746

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

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)	2011-04-13
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
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In re Patent No. 6715261
Issue Date: April 6,2004
Application No. 10345049
Filed: January 14,2003
Attorney Docket No. 8403.746

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

This is a decision on the electronic petition, filed April 13,2012 ,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 April 13,2012 .
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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HONEYWELL/STW
Patent Services
101 Columbia Road
P.O. Box 2245
Morristown NJ 07962-2245

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,719,262 :
Issue Date: May 18, 2010 :
Application No. 10/345,206 : DECISION ON PETITION
Filed: January 16, 2003 :
Attorney Docket No. Hoo193B-1326.1158101 :

This is a decision on the Request For Certificate Of Correction Of Patent For PTO Mistake (37 C.F.R. 1.322(a)), filed January 10, 2011, requesting correction on the Title Pate of the subject patent to add "Honeywell Control Systems Limited, Motherwell, United Kingdom" as the correct assignee. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with the Petition.

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

Petitioner requests that the present Petition was submitted to add "Honeywell Control Systems Limited, Motherwell, United Kingdom" as the correct assignee on the previously submitted PTOL-85B and that such error was PTO mistake. Accordingly, petitioner request, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to add the correct assignee's name.

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 [emphasis added]. *See also* MPEP 1481.01.

Section 1481.01, Correction of Assignees' Names, of the Manual of Patent Examining Procedures (MPEP) states, in part:

> "The Transmittal Form portion (PTOL-85B) of the Notice of Allowance Provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Transmittal Form (PTOL-85B)), the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.
>
> Any request for the 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:
>
> (A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of patent;
> (B) include a request for certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
> (C) include the processing fee set forth in 37 CFR 1.17(i)."

The petition states that the error in not providing the correct assignee's name on the front of the patent was a PTO mistake. However, a review of the Issue Fee Transmittal Form (PTO 85B) clearly reveals that the name of the assignee to be printed on the patent was ***Honeywell International Inc.***, and the alleged error was ***not*** a PTO mistake. Section 1481.01, supra, state that assignment data printed on the patent will be based solely on the information so supplied in the Issue Fee Transmittal Form (PTOL-85B).

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

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: SEACER, TUFTE & WICKHEM, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420

UNITED STATES PATENT AND TRADEMARK OFFICE

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101 Columbia Road
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Morristown NJ 07962-2245

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,719,262 :
Issue Date: May 18, 2010 :
Application No. 10/345,206 : DECISION ON PETITION
Filed: January 16, 2003 :
Attorney Docket No. Hoo193B-1326.1158101 :

This is a decision on the Request For Certificate Of Correction Of Patent For Applicant Mistake (37 CFR 1.323), filed July 13, 2011, 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 and such error was applicant's mistake. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

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 [emphasis added]. *See also* MPEP 1481.01.

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 (Modified PTO/SB/44) submitted with Petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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. 7,719,262.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: SEAGER, TUFTE & WICKHEM, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420

UNITED STATES 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. 7209602
Issue Date: April 24,2007
Application No. 10345432
Filed: January 14,2003
Attorney Docket No. P-0783

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

This is a decision on the electronic petition, filed June 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 June 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.

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)
7,209,602	2007-04-24	10/345,432	2003-01-14	P-0783

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

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	/Daniel Y.J. Kim/	Date (YYYY-MM-DD)	2011-06-27
Name	Daniel Y.J. Kim	Registration Number	36186

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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MAILED
OCT 21 2010
OFFICE OF PETITIONS

LINGBECK PATENT LAW OFFICE
P.O. BOX 500
ST. MICHAEL, MN 55376

In re Patent No. 6,784,353 :
Issue Date: August 31, 2004 :
Application No. 10/345,451 : ON PETITION
Filed: January 17, 2003 :
Patentee(s): Eric Davis :

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

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

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 the address given in the present petition is different from the address of record. A courtesy copy of this decision is being mailed to petitioner at the address given in the petition. However, petitioner should note that a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding maintenance fees for the above patent, a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted. See USPTO forms PTO/SB/47 and PTO/SB/125.

This patented file is being forwarded to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Eric Davis
5130 Adalis Drive
Elk Grove, CA 95758

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 759
GENOA NV 89411

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AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Daane et al.	:	
Application No. 10/345,663	:	DECISION ON PETITION
Filed: January 16, 2003	:	
Attorney Docket No. PI-30051CIP1B	:	

This is a decision on the petition, filed March 24, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 17, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 17, 2009. A Notice of Abandonment was mailed January 5, 2010.

Petitioner asserts that the Notice dated September 17, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.

(2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

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 has failed to submit a copy of docket records that identify by either application number or docket number the entries listed. However, it is noted that on page 03/05 that it appears that petitioner received a Notice of Allowance mailed September 17, 2009.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Allowance, 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 $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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).

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.

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Bennet K. Langlotz
PO Box 96503 #37585
Washington, DC 20090-6503

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LANGLOTZ PATENT WORKS
PO BOX 759
GENOA NV 89411

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Daane et al.	:	
Application No. 10/345,663	:	DECISION ON PETITION
Filed: January 16, 2003	:	
Attorney Docket No. PI-30051CIP1B	:	

This is a decision on the renewed petition, filed September 13, 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 December 17, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 17, 2009. A Notice of Abandonment was mailed January 5, 2010.

Petitioner asserts that the Notice dated September 17, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.

(2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

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.

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.

This application is being referred to the Technology Center AU 2831 technical support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due of September 17, 2009. The period for paying the issue and publication 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.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Bennet K. Langlotz
PO Box 96503 #37585
Washington, DC 20090-6503

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,615,604	:	
Issued: November 10, 2009	:	
Application No. 10/346,061	:	ON PETITION
Filed: January 17, 2003	:	
Attorney Docket No. 84472-US1	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Patent No. 7,241,504 :
Issue Date: July 10, 2007 :
Application No. 10/346,099 : NOTICE
Filed: January 17, 2003 :
Attorney Docket No. 84308-US1

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
www.uspto.gov

GUNNISON, MCKAY & HODGSON, LLP
1900 GARDEN ROAD, SUITE 220
MONTEREY CA 93940

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of
Eduard De Jong
Application No. 10/346,230
Filed: January 16, 2003
Attorney Docket No. P-8713

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 June 1, 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 May 23, 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3694 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
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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P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED
SEP 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,269,634 :
Issue Date: September 11, 2007 :
Application No. 10/346,726 : NOTICE
Filed: January 16, 2003 :
Attorney Docket No. 8017-80149-US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed July 22, 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**.

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) 272-3213.

Cheryl Gibson Baylor

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

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of :
Ishidoshiro, et al. :
Application No. 10/346,731 :
Filed: January 17, 2003 :
Attorney Docket No. MES1P078 :

NOTICE

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**.

Patentees authorized payment of $2,255.00 from deposit account no. 50-4481. Deposit account no. 50-4481 was overcharged by $490.00. Accordingly, deposit account no. 50-4481 will be refunded $490.00.

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
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FOUR MARSHALL FAMILY LIMITED
PARTNERSHIP
101 CRAVEY ROAD
BOERNE, TX 78006

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Kelly L. Marshall	:	
Application No. 10/346788	:	DECISION
Filing or 371(c) Date: 01/21/2003	:	ON PETITION
Title of Invention:	:	
METHOD AND APPARATUS FACILITATING	:	
CLOSURE OF HOISTWAY DOOR	:	

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b)," filed October 22, 2010.

This Petitions are hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 1, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No timely and proper reply having been received, the application became abandoned on November 2, 2005. A Notice of Abandonment was mailed February 24, 2006.

Applicant files the present petition and the response, continuation application, 12/730614. The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application; (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the petition is granted.

This application is being revived for continuity purposes, and is again abandoned in favor of the continuing application, serial no. 12/927917, filed October 22, 2010.

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 the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: CAMPBELL,ANTHONY,
P O Box 160370
Austin, TX 78716

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of :
Graham, et al. :
Application No. 10/346,853 : DECISION ON PETITION
Filed: January 17, 2003 :
Atty. Dkt. No.: 0687/74768-A/JPW/GJG/JRM :

This is a decision on the petition filed February 16, 2011, under 37 CFR 1.182. Receipt of the required $400.00 petition fee is acknowledged.

Petitioners herein request that the terminal disclaimer filed December 21, 2009 be withdrawn.

The examiner of record advises that the terminal disclaimer filed December 21, 2009 may be withdrawn.

In view thereof, the terminal disclaimer filed December 21, 2009 is hereby **WITHDRAWN** and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

This application is being forwarded to Group Art Unit 1635 for further processing, including updating of USPTO records for the above-identified application for consistency with this decision.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
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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COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK NY 10112

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Graham et al.	:	
Application Number: 10/346,853	:	NOTICE
Filing or 371(c) Date: 01/17/2003	:	
Attorney Docket Number: 0687/74768-A/JPW/GJG/JRM	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on March 1, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/347,018	01/17/2003	Alice Mary Kiely		6985

7590 12/23/2010

Alice O. Kiely
71 Stonewall Court
Yorktown Heights, NY 10598

EXAMINER
CHAWLA, JYOTI

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
12/23/2010	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

DEC 23 2010

wk

Mailed:

In re application of
Kiely
Serial No. 10/347,018
Filed: January 17, 2003
For: EDIBLE HOMOGENOUS SUPPORTS FOR COMESTIBLES WITH OPTIONAL MESS GUARDS AND DRIP GUARDS

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on September 22, 2010 to Request Withdrawal of the Holding of Abandonment and Petition to Withdraw the Finality of the Office Action.

The Final Rejection was mailed on October 29, 2008. Applicant responded on January 29, 2009. The Examiner issued an Advisory action on February 18, 2009 notifying Applicant that the amendment will not be entered and that the period for reply expires 3 months from the mailing date of the final. Applicant submitted another reply in response to the Advisory on March 9, 2009. The Examiner issued an Advisory on April 1, 2009 notifying Applicant that the amendment will not be entered and that the period for reply expires 3 months from the mailing date of the final. The Application was abandoned on June 8, 2009.

Once a final rejection that is not premature has been entered in an application, Applicant no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Ordinarily, amendments filed after the final action are not entered unless approved by the Examiner.

The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the Examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

In no event can the statutory period for reply expire later than 6 months (**April 29, 2010**) from the mailing date of the Final rejection which was **October 29, 2008**. Applicant's reply is limited either to an appeal or to an amendment complying with the requirements set forth below. A Notice of Appeal must be filed within the period for reply. Applicant submitted amendments After Final on January 29, 2009 and April 1, 2009 which were not entered by the Examiner. The statutory period for response by Applicant expired on April 29, 2009. No Notice of Appeal was file before April 29, 2009. The Notice of Abandonment was mailed out on June 8, 2009 and Applicant filed the Petition on September 22, 2010.

The Final Office Action addressed Applicant's submission of June 27, 2008. In that submission claims 102-110, 112, 115-121 have been amended, claims 122-124 have been added and previously examined claims 111, 113 and 114 were cancelled.

Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by Applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record indicates that the amendment filed by Applicant necessitated the new ground(s) of rejection presented in this Office Action. The Finality of the Office Action was not premature or improper. The Finality is proper.

Applicants filing of an amendment after final rejection do not stop the period for reply. Applicant's failure to file a Notice of Appeal within the period for reply cause the application to become abandoned. The holding of abandonment is maintained and not withdrawn.

DECISION

The petition is **DENIED**.

A review of the application indicates that Applicant has been prosecuting the application without the aid of a Patent Agent or Attorney. The Inventors Assistance Center (IAC) provides patent information and services to the public. IAC can answer general questions regarding patent examining policy; direct your call to appropriate USPTO personnel, as necessary; assist you with filling out forms; provide you with general information concerning rules, procedures, and fees; and send you patenting information via mail or facsimile. IAC cannot answer questions concerning a particular patent application; or give an opinion as to whether an invention is patentable or provide legal advice. You can contact the IAC at **800-PTO-9199** (800-786-9199).

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

Alice O. Kiely
71 Stonewall Court
Yorktown Heights NY 10598-1819

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.
10/347,018	01/17/2003	Alice Mary Kiely		6985

7590 05/11/2011

Alice O. Kiely
71 Stonewall Court
Yorktown Heights, NY 10598

EXAMINER
CHAWLA, JYOTI

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
05/11/2011	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

Mailed: 5/11/11

In re application of
Kiely
Serial No. 10/347,018
Filed: January 17, 2003
For: EDIBLE HOMOGENOUS SUPPORTS FOR COMESTIBLES WITH OPTIONAL MESS GUARDS AND DRIP GUARDS

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on January 23, 2011, to Request Reconsideration of the Petition Decision mailed December 23, 2010. The initial petition request was for Withdrawal of the Holding of Abandonment and Petition to Withdraw the Finality of the Office Action.

Applicant asserts that the decision of 12/23/10 is plainly unresponsive and request reconsideration that the finality of the Office Action of October 29, 2008 be withdrawn as its submitted to have been proven to have been premature. Applicant further asserts that the decision does not address any of Applicant's evidence, statements, or arguments.

The Final Rejection was mailed on October 29, 2008. Applicant responded on January 29, 2009. Applicant's response never raised the issue of the final rejection being premature. The Examiner issued an Advisory action on February 18, 2009 notifying Applicant that the amendment will not be entered and that the period for reply expires 3 months from the mailing date of the final rejection

Applicant submitted a reply in response to the Advisory Action on March 9, 2009. Applicant's response did not discuss the issue of the final rejection being premature. The Examiner issued an Advisory Action on April 1, 2009 notifying Applicant that the amendment will not be entered and that the period for reply expires 3 months from the mailing date of the final. The Application was abandoned on June 8, 2009.

Once a final rejection that is not premature has been entered in an application, Applicant no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Ordinarily, amendments filed after the final action are not entered unless approved by the Examiner.

The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the Examiner holds the claims to be in condition for allowance. The Examiner never held the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within

the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

In no event can the statutory period for reply expire later than 6 months (**April 29, 2010**) from the mailing date of the Final rejection which was **October 29, 2008**. Applicant's reply is limited either to an appeal or to an amendment complying with the requirements set forth below. A Notice of Appeal must be filed within the period for reply. Applicant submitted amendments After Final on January 29, 2009 and April 1, 2009 which were not entered by the Examiner. The statutory period for response by Applicant expired on April 29, 2009. No Notice of Appeal was file before April 29, 2009. The Notice of Abandonment was mailed out on June 8, 2009 and Applicant filed the initial Petition on September 22, 2010.

The Final Office Action of October 29, 2008, addressed Applicant's submission of June 27, 2008. In that submission claims 102-110, 112, 115-121 have been amended, claims 122-124 have been added and previously examined claims 111, 113 and 114 were cancelled.

Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by Applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record indicates that the amendment filed by Applicant necessitated the new ground(s) of rejection presented in this Office Action. The Finality of the Office Action was not premature or improper. The Finality is proper.

Petitioning the withdrawal of finality of the office action after abandonment of the application is not timely.

Rule 1.181, Section (f) states:
§ 1.181 Petition to the Commissioner.

(f) 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

DECISION

The request for reconsideration is **DENIED**.

A review of the application indicates that Applicant has been prosecuting the application without the aid of a Patent Agent or Attorney. The Inventors Assistance Center (IAC) provides patent information and services to the public. IAC can answer general questions regarding patent examining policy; direct your call to appropriate USPTO personnel, as necessary; assist you with filling out forms; provide you with general information concerning rules, procedures, and fees; and send you patenting information via mail or facsimile. IAC cannot answer questions concerning a particular patent application; or give an opinion as to whether an invention is patentable or provide legal advice. You can contact the IAC at **800-PTO-9199** (800-786-9199).

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

Alice O. Kiely
71 Stonewall Court
Yorktown Heights NY 10598-1819

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/347,018	01/17/2003	Alice Mary Kiely		6985

7590 09/12/2011

Alice O. Kiely
71 Stonewall Court
Yorktown Heights, NY 10598

EXAMINER
CHAWLA, JYOTI

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
09/12/2011	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.

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wk

Mailed: 9/12/11

In re application of	:	
Kiely	:	DECISION ON
Serial No. 10/347,018	:	PETITION
Filed: January 1 7, 2003	:	
For: **EDIBLE HOMOGENOUS SUPPORTS FOR COMESTIBLES WITH OPTIONAL MESS GUARDS AND DRIP GUARDS**		

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on May 27, 2011, to Request Reconsideration of the Petition Decision mailed May 11, 2011.

The Final Rejection was mailed on October 29, 2008. Applicant responded on January 29, 2009. The Examiner issued an Advisory action on February 18, 2009 notifying Applicant that the amendment will not be entered and that the period for reply expires 3 months from the mailing date of the final. Applicant submitted another reply in response to the Advisory on March 9, 2009. The Examiner issued an Advisory on April 1, 2009 notifying Applicant that the amendment will not be entered and that the period for reply expires 3 months from the mailing date of the final. The Application was abandoned on June 8, 2009.

A request for reconsideration must be filed within two months of the mailing date of the decision denying the petition. The initial petition decision was mailed on December 23, 2010. Applicant filed a request for reconsideration on January 23, 2011. A first request for reconsideration will be entertained if filed within two months. Applicant did do this.

Since contested matters must be brought to a conclusion within a reasonable time, the Office will grant a petition upon a second request for reconsideration only in those rare situations where the petitioner presents significant facts or evidence that was not previously available. *In re American National Bank and Trust Company of Chicago,* 33 USPQ2d 1535 (Comm'r Pats. 1993).

If the petitioner presents new facts that warrant equitable relief, or there is a new standard of review for the petition, the Office may grant the petition upon request for reconsideration. However, the Office will generally deny the petition if the request for reconsideration merely reiterates or expands on arguments previously presented. The May 11, 2011 petition decision was a reconsideration of the petition decision of December 23, 2010. The petition was denied. That decision was a final agency action.

Applicant's continued filing of letters requesting reconsideration of the petition decision will be treated as an act of intentional delay since a final agency action has been issued. The application is abandoned. No further requests will be considered unless accompanied by a petition for revival for the abandoned application.

37 CFR 1.137 covers petitions to revive applications abandoned for failure to prosecute. There are two kinds of petitions to revive identified in this regulation. The requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b).

37 CFR 1.137(a) addresses revival based upon an unavoidable delay in prosecution whereas

37 CFR 1.137(b) addresses revival based upon an unintentional delay in prosecution. Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard.

(a) Requirements for a petition under 37 CFR 1.137(a) (delay was unavoidable):

The form to used can be found at: www.uspto.gov/web/forms/sb0061.pdf

(1) Required reply, unless previously filed.

(2) Petition fee set forth in 37 CFR 1.17(l).

(3) Showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable.

(b) Requirements for a petition under 37 CFR 1.137(b) (delay was unintentional):

The form to used can be found at: www.uspto.gov/web/forms/sb0064.pdf

(1) Required reply, unless previously filed.

(2) Petition fee 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 was unintentional. No showing of reasons for delay is necessary. However, the Commissioner may require additional information where there is a question whether the delay was unintentional.

A petition under 37 CFR 1.137(a) must be accompanied by the petition fee set forth in 37 CFR 1.17(l) and a petition under 37 CFR 1.137 (b) must be accompanied by the petition fee set forth in 37 CFR 1.17(m). The petition fee is required by statute. See 35 U.S.C. 41(a)(7).

The Office cannot grant requests for waiver or reduction of the requisite petition fee.
37 CFR 1.137(b) is applicable to applications abandoned, regardless of the length of time that the application was abandoned. However, note that 37 CFR 1.137(b) requires that the entire period of delay, from the due date of the reply to the date of filing a grantable petition to revive, was unintentional for a petition under 37 CFR 1.137(b) to be granted.

DECISION

The request for reconsideration is **DENIED**.

A review of the application indicates that Applicant has been prosecuting the application without the aid of a Patent Agent or Attorney. The Inventors Assistance Center (IAC) provides patent information and services to the public. IAC can answer general questions regarding patent examining policy; direct your call to appropriate USPTO personnel, as necessary; assist you with filling out forms; provide you with general information concerning rules, procedures, and fees; and send you patenting information via mail or facsimile. IAC cannot answer questions concerning a particular patent application; or give an opinion as to whether an invention is patentable or provide legal advice. You can contact the IAC at 800-PTO-9199 (800-786-9199).

The USPTO recommends that inventors and applicants unfamiliar with the patent laws, rules, and USPTO procedures, consult a registered patent attorney or agent to conduct the prosecution of their patent applications.

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

Alice O. Kiely
71 Stonewall Court
Yorktown Heights NY 10598-1819

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MAILED
MAR 26 2012
OFFICE OF PETITIONS

Alice O. Kiely
71 Stonewall Court
Yorktown Heights NY 10598

In re Application of	:
Kiely	: DECISION ON PETITION
Application No. 10/347,018	:
Filed: January 17, 2003	:
For: EDIBLE HOMOGENOUS SUPPORTS	:
FOR COMESTIBLES WITH OPTIONAL	:
MESS GUARDS AND DRIP GUARDS	:

This decision is in response to the "PETITION INVOKING SUPERVISORY REVIEW OF THE DIRECTOR OF THE USPTO Petition to Withdraw Holding of Abandonment," filed September 30, 2011. This matter is being properly treated under 37 CFR 1.181(a)(1) and (a)(3) as a petition to invoke the supervisory authority of the Office of Petitions with respect to the holding of abandonment upheld by the Group Director of Technology Center 1700 in the decision mailed September 12, 2011.

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

BACKGROUND

A final Office action was mailed October 29, 2008.

A response to the final Office action was filed on January 29, 2009.

In response thereto, an Advisory Action was mailed February 18, 2009. The Advisory Action indicated, *inter alia*, that the amendment filed January 29, 2009 would not be entered because the amendment failed to place the application in condition for allowance.

An amendment, including petition for two month extension of time, was filed March 9, 2009.

In response thereto, an Advisory Action was mailed April 1, 2009. The Advisory Action indicated, *inter alia*, that the amendment filed March 9, 2009, would not be entered because it failed to place the application in condition for allowance.

A Notice of Abandonment was mailed June 8, 2009. The Notice of Abandonment indicated that the application was abandoned for failure to timely submit a proper reply to the final Office action mailed October 29, 2008.

On June 15, 2009, applicant submitted a request for continued examination (RCE), including the required submission and fee.

On March 3, 2010, applicant submitted a request for a first Office action in response to the RCE filed June 15, 2009.

On April 28, 2010, the examiner mailed a Letter to the applicant advising the applicant that further consideration of the application would not be forthcoming because the application was in fact abandoned.

On September 22, 2010, applicant filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment and withdrawal of the finality of the final Office action mailed October 29, 2008.

On December 23, 2010, the petition was DENIED by the Director of Technology Center 1700. The final Office action was deemed proper as it was necessitated as a result of applicant's reply filed June 27, 2007. Thus, the finality of the Office action was not deemed premature and the holding of abandonment was upheld.

On January 24, 2011, applicant filed requests for reconsideration of the decision mailed September 22, 2010 and withdrawal of the finality of the final Office action mailed October 29, 2008.

On May 11, 2011, the request for reconsideration of the decision mailed September 22, 2010 was DENIED under 37 CFR 1.181(f). Further, with respect to the petition for withdrawal of the finality of the final Office action mailed October 29, 2008, the petition was DENIED AS UNTIMELY under 37 CFR 1.181(f).

On May 27, 2011, a further request for reconsideration was mailed. On September 12, 2011, the request for reconsideration was again DENIED for the reasons previously set forth in the previous decisions on petition.

The instant petition to the Director was filed September 30, 2011.

STATUTE AND REGULATIONS

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 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.

(b) The Director shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant. The Director may establish

appropriate fees for such continued examination and shall provide a 50 percent reduction in such fees for small entities that qualify for reduced fees under section 41(h)(1) of this title.

35 USC 133 states:

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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR 1.113 states:

(a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's, or for ex parte reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Director in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an inter partes reexamination filed under § 1.913, see § 1.953.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.

(c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

37 CFR 1.181 states:

(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;

*****

(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.

*****

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

*****

(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.

OPINION

Petitioner filed a petition under 37 CFR 1.181 (a)(1) and (3) on September 30, 2011, requesting a review of the TC Director's decision mailed September 12, 2011.

Wherein petition states:

> "A Request for Reconsideration for the decision of 5/11/2011 has been denied, without any reason regarding Applicant's particular arguments. Applicant has not been heard."

It is held that the TC Director properly DENIED AS UNTIMELY the request for withdrawal of the finality of the final Office action mailed October 29, 2008. Any petition under 37 CFR 1.181 not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. The final Office action was mailed October 29, 2008. The replies filed January 29, 2009 and March 9, 2009 did not include a petition under 37 CFR 1.181 for withdrawal of the finality of the final Office action mailed October 29, 2008. Accordingly, applicant seemingly acquiesced to the finality of the Office action inasmuch as applicant submitted replies in response thereto. Accordingly, the denial of the petition as untimely with respect to the finality of the final Office action is upheld.

With respect to the withdrawal of the holding of abandonment, it is further held that the TC Director properly denied applicant's petition for withdrawal of the holding of abandonment. The record fails to establish that a proper reply to the final Office action mailed October 29, 2009 was timely received on or before the maximum extendible period of time for reply. A proper reply was required to consist of an amendment *prima facie* placing the application in condition for allowance, a request for continued examination (including fee and submission), a notice of appeal (including fee), or a continuation application (including fee), and, if applicable, a petition for extension of time (including fee).

A proper reply was not received. Failure by applicant of a patent applicant to reply within the time period provided under § 1.134 and § 1.136 results in abandonment of the application as a matter of law. See, 37 CFR 1.135(a). As the record fails to establish that a proper reply to the final Office action mailed October 29, 2009 was timely filed within the time period for reply set forth therein, the holding of abandonment will not be withdrawn.

CONCLUSION

With respect to (1) the petition to withdraw the finality of the final Office action mailed October 29, 2009 and (2) the petition for withdrawal of the holding of abandonment, petitioner's arguments do not provide legal authority for setting aside or otherwise disturbing (1) the final Office action mailed October 29, 2008 and (2) the TC Director's decisions on petition mailed December 23, 2010, May 11, 2011, and September 12, 2011. Petitioner's arguments do not provide any legal authority for the withdrawal of the holding of abandonment which occurred as a matter of law for failure to timely submit a proper reply to the final Office action mailed October 29, 2008. Further, subsequent to submitting replies in the response to the final Office, applicant raised arguments that the finality of the Office action mailed October 29, 2008 was improper. As these arguments were submitted subsequent to applicant's replies to the Office action and subsequent to the abandonment of the application, applicant's arguments that the finality of the final Office action was improperly was properly deemed untimely.

Accordingly, the petition is granted to the extent that the petition for withdrawal of finality of the Office action and the petition for withdrawal of the holding of abandonment have been reconsidered. However, the petitions under 37 CFR 1.181(a)(1) and (a)(3) are hereby **DENIED**.

ALTERNATE VENUE

As previously suggested, petitioner may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee (currently $930.00 for a small entity) and reply (it is noted that an RCE was previously filed June 15, 2009). See, enclosed.

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 revival under 37 CFR 1.137(b).

Telephone inquiries concerning this matter may be directed to Attorney Advisor at (571) 272-3205.

Anthony Knight
Director
Office of Petitions

Enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
620 Eighth Avenue
NEW YORK NY 10018

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JAN 13 2011
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In re Application of	:	
Engel	:	DECISION ON APPLICATION
Application No. 10/347,178	:	FOR PATENT TERM ADJUSTMENT
Filed: January 8, 2003	:	
Docket No. 103832-431NP	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed October 21, 2010. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 603 days to 760 days.

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 of the mailing of the notice of allowance is **six hundred fourteen (614) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 14, 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 (PTA) to date is 603 days. On October 21, 2010, applicant timely submitted the instant application for patent term adjustment.

Applicant asserts there should be a 157 day adjustment entered in connection with the mailing of the Notice of Allowance on October 14, 2010. Applicant asserts there was Office delay, pursuant to 37 CFR 1.702(a)(3), in taking action 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 where at least one allowable claim remains in the application.

The Office concurs that an adjustment should be entered. However, the Office does not concur as to the length of the adjustment.

The Board of Patent Appeals and Interferences reversed the one pending rejection in the application by decision mailed on January 7, 2010. A non-final Office action was mailed on March 23, 2010. On May 18, 2010, the Office mailed another non-final Office action that vacated the March 23, 2010. This Office action was signed by the T.C. Director. A Notice of Allowance was mailed on October 14, 2010.

Applicant would have the Office accord 157 days of Office delay on the argument that both the March 23, 2010 and the May 18, 2010 non-final Office actions were vacated. Thus, the Notice of Allowance, mailed October 14, 2010, was the first action after the January 7, 2010 Board decision.

37 CFR 1.702(a) provides, in pertinent part, that grounds for adjustment of patent term due to examination delay include failure of the Office to

> (3) 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

Pursuant to 37 CFR 1.703(a), the period is calculated as follows:

> (5) 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;

The Office mailed a non-final Office action on March 23, 2010, which was subsequently vacated by the T.C. Director on May 18,

2010. The effect is that the March 23, 2010 Office action is treated as if it were never mailed. The first Office action mailed after the January 7, 2010 Board decision is the May 18, 2010 non-final Office action. Regarding the period of Office delay, pursuant to 37 C.F.R. § 1.703(a)(5), an adjustment of 11 days should be entered, beginning on May 8, 2010, the day after four months after the Board decision was mailed, and ending on May 18, 2010, the date the non-final Office action was mailed.

The fact that the Office mailed a Notice of Allowance on October 14, 2010 does not negate the fact that the Office first mailed an action under 35 U.S.C. §132 in response on May 18, 2010. The May 18, 2010 non-final Office action was **not** vacated by the T.C. Director. Accordingly, Office delay in taking action in response to the Board decision is 11, days. A period of 11 days will be entered.

In view thereof, the determination of patent term adjustment at the time of mailing of the notice of allowance is six hundred fourteen **(614) days** (850 (100 + 165 + 574 + 11) days of Office delay - 236 days of Applicant delay).

As authorized, the Office will charge the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicant is 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 applicant 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 at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: updated PAIR screen for Application No. 10/347,178

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

- Patent Guidance and General Info
- Codes, Rules & Manuals
- Employee & Office Directories
- Resources & Public Notices

Patent Searches

- Patent Official Gazette
- Search Patents & Applications
- Search Biological Sequences
- Copies, Products & Services

Other

- Copyrights
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- Policy & Law
- Reports

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10/347,178 PROCESS FOR PREVENTING PROTOZOAL DISEASES

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:	01-08-2003	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	839
A Delays:	265	PTO Manual Adjustments:	11
B Delays:	0	Applicant Delays:	236
C Delays:	574	Total PTA Adjustments:	614

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
125	01-10-2011	Adjustment of PTA Calculation by PTO	11		0
116	10-14-2010	Mail Notice of Allowance			0
115	10-08-2010	Issue Revision Completed			0
114	10-08-2010	Document Verification			0
113	10-08-2010	Notice of Allowance Data Verification Completed			0
112	10-08-2010	Case Docketed to Examiner in GAU			0
111	10-06-2010	Notice of Allowability			0
110	05-18-2010	Electronic Review			0
109	05-18-2010	Email Notification			0
108	05-18-2010	Mail Non-Final Rejection			0
107	05-11-2010	Non-Final Rejection			0
106	03-23-2010	Mail Notice of Withdrawn Action			0
101	03-16-2010	Letter Withdrawing / Vacating Office Action			0
100	03-24-2010	Electronic Review			0
99	03-23-2010	Email Notification			0
98	03-23-2010	Mail Non-Final Rejection			0
97	03-16-2010	Non-Final Rejection			0
95	01-07-2010	Electronic Review			0
94	01-07-2010	Email Notification			0
93	01-07-2010	Mail BPAI Decision on Appeal - Reversed	574		66

92	01-05-2010	BPAI Decision - Examiner Reversed	0
91	12-30-2009	Email Notification	0
90	12-30-2009	Change in Power of Attorney (May Include Associate POA)	0
89	07-17-2009	Docketing Notice Mailed to Appellant	0
88	07-17-2009	Assignment of Appeal Number	0
86	07-13-2009	Appeal Awaiting BPAI Docketing	0
85	07-11-2009	Appeal ready for BPAI review	0
84	06-22-2009	Correspondence Address Change	0
83	06-03-2009	Correspondence Address Change	0
82	04-03-2009	Information Disclosure Statement (IDS) Filed	0
81	04-06-2009	Appeal ready for BPAI docketing	0
80	04-03-2009	Mail Miscellaneous Communication to Applicant	0
79	03-30-2009	Miscellaneous Communication to Applicant - No Action Count	0
78	01-12-2009	Miscellaneous Incoming Letter	0
77	01-28-2009	Return of Undocketed appeal to the TC	0
76	01-28-2009	Exam. Ans. Review Complete	0
75	12-19-2008	Mail Examiner's Answer	66
74	12-18-2008	Examiner's Answer to Appeal Brief	0
73	10-09-2008	Date Forwarded to Examiner	0
72	09-25-2008	Appeal Brief Filed	0
71	09-11-2008	Notice -- Defective Appeal Brief	0
70	09-04-2008	Appeal Brief Review Complete	0
69	09-04-2008	Date Forwarded to Examiner	0
68.1	08-20-2008	Defective / Incomplete Appeal Brief Filed	0
68	08-20-2008	Appeal Brief Filed	0
67	08-20-2008	Request for Extension of Time - Granted	0
66	06-13-2008	Notice of Appeal Filed	0
65	04-27-2005	Information Disclosure Statement considered	0
64	04-27-2005	Information Disclosure Statement (IDS) Filed	0
63	03-17-2008	Mail Final Rejection (PTOL - 326)	0
62	02-07-2008	Final Rejection	0

61	12-03-2007	Information Disclosure Statement considered		0
60	12-03-2007	Reference capture on IDS		0
59	12-03-2007	Information Disclosure Statement (IDS) Filed	0	57
58	12-14-2007	Date Forwarded to Examiner		0
57	12-03-2007	Response after Non-Final Action	93	52
56	12-03-2007	Request for Extension of Time - Granted		0
55	12-03-2007	Information Disclosure Statement (IDS) Filed		0
54	04-14-2006	Information Disclosure Statement considered		0
53	04-14-2006	Information Disclosure Statement (IDS) Filed		0
52	06-01-2007	Mail Non-Final Rejection		0
51	05-29-2007	Non-Final Rejection		0
50	03-15-2007	Information Disclosure Statement considered		0
48.7	03-15-2007	Information Disclosure Statement (IDS) Filed	0	44
48	03-15-2007	Information Disclosure Statement (IDS) Filed		0
47	03-22-2007	Date Forwarded to Examiner		0
46	03-15-2007	Amendment Submitted/Entered with Filing of CPA/RCE		0
45	03-22-2007	Date Forwarded to Examiner		0
44	03-15-2007	Request for Continued Examination (RCE)		42
43	03-22-2007	Disposal for a RCE / CPA / R129		0
42	03-15-2007	Notice of Appeal Filed	44	39
41	03-15-2007	Request for Extension of Time - Granted		0
40	03-15-2007	Workflow - Request for RCE - Begin		0
39	10-30-2006	Mail Final Rejection (PTOL - 326)		0
38	10-26-2006	Final Rejection		0
37	09-27-2006	Date Forwarded to Examiner		0
36	09-22-2006	Response after Non-Final Action	1	34
35	09-22-2006	Request for Extension of Time - Granted		0
34	06-21-2006	Mail Non-Final Rejection		0
33	06-20-2006	Non-Final Rejection		0
32	04-25-2006	Date Forwarded to Examiner		0
31	04-19-2006	Amendment Submitted/Entered with Filing of CPA/RCE		0

30	04-25-2006	Date Forwarded to Examiner			0
29	04-19-2006	Request for Continued Examination (RCE)		6	25
28	04-25-2006	Disposal for a RCE / CPA / R129			0
27	04-19-2006	Request for Extension of Time - Granted			0
26	04-19-2006	Workflow - Request for RCE - Begin			0
25	01-13-2006	Mail Final Rejection (PTOL - 326)			0
24	01-12-2006	Final Rejection			0
23	11-09-2005	Date Forwarded to Examiner			0
22	10-27-2005	Response after Non-Final Action		92	20
21	10-27-2005	Request for Extension of Time - Granted			0
20	04-27-2005	Mail Non-Final Rejection	165		17
19	04-18-2005	Non-Final Rejection			0
18	02-15-2005	Date Forwarded to Examiner			0
17	07-13-2004	Response to Election / Restriction Filed			0
16	08-11-2004	Case Docketed to Examiner in GAU			0
15	06-16-2004	Mail Restriction Requirement	100		-1
14	06-14-2004	Requirement for Restriction / Election			0
13	05-13-2004	Reference capture on IDS			0
12	05-13-2004	IFW TSS Processing by Tech Center Complete			0
11.7	06-13-2003	Information Disclosure Statement (IDS) Filed			0
11	06-13-2003	Information Disclosure Statement (IDS) Filed			0
10	05-13-2004	Case Docketed to Examiner in GAU			0
9	08-12-2003	Application Dispatched from OIPE			0
8	08-12-2003	Application Is Now Complete			0
7	05-09-2003	Payment of additional filing fee/Preexam			0
6	05-09-2003	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	03-07-2003	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	03-05-2003	Cleared by L&R (LARS)			0
3	01-27-2003	IFW Scan & PACR Auto Security Review			0
2	01-27-2003	IFW Scan & PACR Auto Security Review			0
	01-08-				

1	2003	Initial Exam Team nn	0

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC) .*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.*

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

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12-16-2010

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

Patent No. : 7,817,362 B2
Ser. No. : 10/347,387
Inventor(s) : Takahashi, et. al.
Issued : October 19, 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.

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.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Leonid D. Thenor
Antonelli, Terry, Stout & Kraus
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

ej

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

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. 7,817,362 :
Issue Date: October 19, 2010 :
Application No.: 10/347,387 :
Filed: January 21, 2003 :
Attorney Docket No.: 520.42408X00 :

ON PETITION

This is a decision in response to a communication filed January 25, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data 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) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

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.

/SDB/

Sherry D. Brinkley
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
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Alexandria, VA 22313-1450
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OCT 25 2011
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KF ROSS PC
311 East York Street
Savannah GA 31401

In re
Bausch
Application No. 10/347,578
Filed: January 17, 2003
Patent No. 6,748,983
Issued: June 15, 2004
Attorney Docket No. 22445

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 $1900 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

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NEIL F. MARKA
8322-A TRAFORD LANE
SPRINGFIELD, VA 22152

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Patent No. 6,880,832	:	
Issue Date: April 19, 2005	:	
Application No. 10/347,591	:	DECISION ON PETITION
Filed: January 22, 2003	:	
Inventor: John L. DEROSA	:	

This is a decision on the petition for expungement of information, filed December 29, 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.

Petitioner indicates an assignment recorded on June 2, 2009 was erroneously filed for the above identified application and requests this assignment record be expunged from the file, the cover sheet and the assignment document returned. Petitioner alleges that the Office permitted the attorney for J.P. Walsh & J. L. Marmo Enterprises, Inc., Thomas P. Pavelko, to record a 1998 contract as an assignment document.

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. See MPEP 302.07 for examples of the types of descriptions of the interest conveyed or transaction to be recorded that can be identified.

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. Petitioner should note that the "assignment documents" and "corrective documents" are not limited to assignments, but include any documents affecting title to a patent or application. See MPEP § 313.

Therefore, the rules of practice and the procedures before the USPTO provide an avenue for the requested relief without relying upon extraordinary measures. That is, the chain of title can be clarified in the assignment records through the recording of a corrective document. 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).

It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application or patent, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes, particularly as it does not have the means or the authority to resolve such disputes. Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11F.3d 1573, 1581 n.10, 29 USPQ 2d 1188, 1194 n.10 (Fed. Cir. 1993), *cert. denied*, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003).

The USPTO cannot settle disputes as to title as a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2d 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2d 1361 (Iowa 1994)(patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same).

If petitioner is successful in resolving this dispute, the proper documentation should be promptly submitted to the USPTO for recordation against the patent.

A petition to expunge assignment documents is properly addressed under 37 CFR 1.182 and a fee of $400.00 is required. The $400 petition fee has been charged to petitioner's Deposit Account No. 13-1720.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Patent No. 6,761,163 :
Issue Date: July 13, 2004 : DECISION ON PETITION
Application No. 10/347,608 :
Filed: January 21, 2003 :
Attorney Docket No. ATOMIC-14 :

This is a decision in response to the petition under 37 CFR 1.378(b), filed January 3, 2011, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is **dismissed** without prejudice to reconsideration.

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). Any such petition for reconsideration must be accompanied by the petition fee of $400.00 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 because the Director will not undertaken any further reconsideration or review of the matter after a decision on the petition for reconsideration.

The patent issued on July 13, 2004. The first maintenance fee could have been paid during the period from July 13, 2007 through Monday, January 14, 2008, or with a surcharge during the period from Tuesday, January 15, 2008 through Monday, July 14, 2008. Accordingly, this patent expired on July 14, 2008, for failure to timely remit the first maintenance fee.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

(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.

This petition lacks requirement (3).

As 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995).

That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

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, patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988).

In determining whether the 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. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219 (D. Del. 1995). Moreover, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant, and an applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992). Specifically, delay caused by the actions or inactions of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987).

In the present petition, petitioner asserted that over a protracted period beginning in 2005, counsel's office manager, Ms. Foreman, experienced a medical condition that caused her to fail in her office duties which included notifying the patentee of the need to pay the maintenance fees, obtaining the client's authorization to pay the maintenance fee, and proceeding to send the payment to the USPTO. In support of the petition, petitioners provided a statement from patent practitioner Leonard Tachner, office manager Ms. Foreman, and Dr. Samuel A. Albert.

To establish a showing of "unavoidable" delay based upon medical incapacitation, petitioner must demonstrate that the incapacitation was of such a nature and degree as to render the person unable to conduct business (*e.g.*, correspond with the USPTO) during the period when the maintenance fee was due. Such a showing must be supported by a statement(s) from the person's treating physician(s), and such statement(s) must provide the nature and degree of the person's medical condition during the period from when the maintenance was due (*i.e.*, July 14, 2008) until the filing of a grantable petition. Namely, petitioner should provide the USPTO with a statement from a treating physician, asserting that from the time the maintenance fee was due (*i.e.*, July 14, 2008) until the filing of a grantable petition, the person's medical condition was of such a degree of severity that it prevented her from timely paying the maintenance fee. Additionally, the treating physician must describe person's medical condition, the degree of incapacitation, and the duration of the medical illness.

In this instance, petitioner has not provided sufficient evidence at this time to show that "but for" Ms. Foreman's medical condition, the maintenance fee would have been timely paid. The Office is particularly interested in the duration of Ms. Foreman's medical condition - the date of when Ms. Foreman's medical condition began until the date she sought treatment. Petitioner may wish to

provide a statement from her treating physician. Additionally, petitioner should submit a statement from Ms. Foreman explaining in detail the exact actions or inactions she took with regard to the docketing and timely paying of the maintenance fees for this patent. The present statements submitted on petition provide the Office with generalities as to the actions/inactions of Ms. Foreman that ultimately resulted in the delayed payment of the maintenance fees.

In summary, petitioner must show that Ms. Foreman's medical condition was the cause of the error in failing to timely pay the maintenance fee; her condition was of such a degree of severity that it prevented her from performing specific duties with regard to the docketing and paying of the maintenance fee for this patent; and that her condition spanned the entire period from the due date for the maintenance fee until the date of the filing of a grantable petition. Without any further explanation or documentary evidence, the Office is left to speculate as to the circumstances that transpired.

The Office cautions petitioner to remove or mark through any personal information in any document submitted to the USPTO that could 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, petitioner should consider deleting such personal information from the documents before submitting them to the USPTO. Petitioner is advised that the patent file is available to the public after the issuance of a patent. However, 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.

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

Petitioner should note that if this petition under 37 CFR 1.378(b)/(e) is not renewed, or if renewed and not granted, petitioner may obtain a refund of the maintenance fee and post-expiration surcharge . The $400.00 petition fee for seeking further reconsideration is not refundable

Any request for refund should be in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

The Office charged the deposit account for the $490.00 maintenance fee due at 3.5 years, the $1,240.00 maintenance fee due at 7.5 years, and the $700.00 surcharge after expiration as authorized.

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 Services Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted electronically via EFS-Web.

The patent file is being returned to Files Repository.

Telephone inquiries regarding this decision may 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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17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

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OCT 06 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,761,163
Issue Date: July 13, 2004
Application No. 10/347,608
Filed: January 21, 2003
Attorney Docket No: ATOMIC-14

REQUEST FOR INFORMATION

A petition was filed on April 12, 2011 under 37 CFR 1.378(e), requesting reconsideration of a decision mailed February 10, 2011, which refused to accept the delayed payment of the maintenance fee for the above-identified patent.

By Petitioner's own admission, the Tachner firm, or persons employed by that firm, have not been truthful with the USPTO. Furthermore, there is a specter of bias in the declaration of Dr. Albert since, at the time of his diagnosis, he was not Janis Foreman's doctor and he was paid to provide his opinion by Mr. Tachner. The record fails to include any evidence corroborating Dr. Albert's diagnosis. Given the circumstances of this case, corroborating evidence for Dr. Albert's diagnosis is required.

It is extremely odd that the people that were closest to Ms. Foreman did not notice that, as stated by Dr. Albert, she exhibited "destabilizing behavior" or that "she lost her sense of reality" or "lost her sense of proportionality." Further, as stated in Mr. Tachner's declaration, it appears that for about two years, Ms. Foreman was failing to bill clients or pay firm obligations even though the performance of these tasks appears to have been her primary duty. Therefore, it is not clear from the record how Mr. Tachner could have failed to recognize Ms. Foreman was failing to properly bill clients and pay firm obligations.

In response to the instant request for information, Petitioner is required to provide a rebuttal to all the assertions set forth in the petition filed July 21, 2010 in U.S. Patent No. 6,205,885.[1] Furthermore, Petitioner must explain why the current explanation provided in this case is any more believable than other explanations previously provided. Petitioner is required to provide corroborating evidence of Ms. Foreman's condition from a source that is independent of Dr. Albert. Additionally, Petitioner must fully discuss how the actions of Ms. Foreman, with regard to the docket, went undetected from early 2005 until January 2011. Further, Petitioner must

[1] A copy of the petition can be accessed using the Office's Public Patent Application Information Retrieval system located at http://portal.uspto.gov/external/portal/pair.

explain how Ms. Foreman's failure to bill clients and pay firm obligations went undetected from early 2005 until the end of 2007.

Petitioner must submit the requested information within TWO MONTHS of the mailing date of this letter. Extensions of time may not be obtained. No additional fee is due for a response to the instant request for information. The response to this Requirement for Information should include a cover letter entitled "Response to Request for Information." The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

The response to this Request for Information should include a cover letter entitled "Response to Request for Information."

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 matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director,
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Takanori Kanehisa	:	
Application No. 10/347,791	:	DECISION ON PETITION
Filed: January 22, 2003	:	
Attorney Docket No. **SN-US015115R**	:	

This is a decision on the petitions, filed May 4, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and alternatively a petition to revive under 37 CFR 1.137(a) or (b) in the above-identified application.

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

The petitions under 37 CFR 1.137(a) or (b) is **DISMISSED AS MOOT** in favor of the 1.181 petition. Therefore, the petition fees are unnecessary and will be credited to petitioner's deposit account as authorized.

This application was held abandoned for the reasons set forth in the Notice of Abandonment mailed April 29, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply was submitted on September 24, 2009. A review of the application file record confirms the receipt of this reply.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

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

This application is being referred to the Technology Center 3657 for appropriate action in the normal course of business on the reply received September 24, 2009.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARRINGTON & SMITH
4 RESEARCH DRIVE, Suite 202
SHELTON CT 06484-6212

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Haverinen, et al. :
Application No. 10/347,947 :
Filed: January 21, 2003 :
Attorney Docket No. 800.0018.U1(US) :

ON PETITION

This is a decision on the petition, filed October 1, 2010, under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition under 37 CFR 1.183 to waive 37 CFR 1.131 is **granted**.

Petitioners assert that, while all seven of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventors Haverinen, Rinnemaa, Smith, Takamaki, Tuomi, and Bush have agreed to execute the attached declaration under 37 CFR 1.131 to swear behind a newly cited reference, Halasz 2007, U.S. Published Patent Application No. 2007/0180244.

Petitioners allege that Inventor Tuominen has refused to sign the declaration under 37 CFR 1.131 and request that the Office accept the declaration executed by less than all the joint inventors.

37 CFR 1.131(a) states,

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

The Office has stated the signature requirements can be waived in certain circumstances.

(1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 714.

(2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable.

Petitioners have established that the non-signing inventor, Hannu Tuominen, has refused to sign the declaration under 37 CFR 1.131 after receiving the declaration, exhibits supporting the declaration, a copy of the final Office action, dated April 27, 2010, and the proposed response to the final Office action. Therefore, the signature requirement of Mr. Tuominen on the declaration under 37 CFR 1.131 is waived.

The application is being returned to Technology Center A.U. 2473 for the examiner of record to consider whether the declaration submitted under 37 CFR 1.131 establishes invention of the subject matter of the rejected claims prior to the effective date of the *Halasz 2007* reference.

Telephone inquiries regarding 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
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Richard A. Haase
4402 Ringrose Drive
Missouri City TX 77459

MAILED

JUL 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,229,550	:	
Issue Date: June 12, 2007	:	
Application No. 10/348,071	:	ON PETITION
Filed: January 21, 2003	:	
Attorney Docket No.	:	
CLEARVALUE020:C		

This is a decision on the petition under 37 CFR 1.378(c), filed June 15, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight June 12, 2011, 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 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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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HAMMER & ASSOCIATES, P.C.
3125 SPRINGBANK LANE
SUITE G
CHARLOTTE NC 28226

MAILED
JUL 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Hess et al.	:	
Application No. 10/348,101	:	DECISION ON PETITION
Filed: January 21, 2003	:	
Attorney Docket No. 2006.2A	:	

This is a decision in response to the petition under 37 CFR 1.183 filed April 26, 2011.

On March 29, 2011, applicants had a personal interview with the examiner and presented a video as an exhibit. However, the video was not admitted as part of the record of the application because it does not substantially conform to the requirements of 37 CFR 1.84. See 37 CFR 1.91(c). Accordingly, the examiner indicated that applicants should submit photographs of what is depicted in the video. The Office notes that 37 CFR 1.91(c) permits the inclusion of photographs, provided the photographs "show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84."

A 1.132 Declaration and facsimile copies of the photographs were presented in draft form for the examiner to review. The examiner stated that the facsimile copies of the photographs "are not clear and can not be relied upon as evidence." *Interview summary mailed April 19, 2011, p. 4.* It is interpreted that the examiner determined that the facsimile copies of the photographs do not comply with the requirements of 37 CFR 1.91(c) and in particular, 37 CFR 1.84 as referenced therein. Hence, applicants have filed the present petition under 37 CFR 1.183, requesting that the Office enter the color photographs attached to the Declaration of Diane B. Hess as an artifact so that they can be preserved in the application file wrapper.

Initially, the Office notes that no color photographs accompany the Declaration of Diane B. Hess. Therefore, the Office is unable to review the color photographs for the purposes of deciding the present petition. Nevertheless, the Office reminds applicants that the granting of a petition under 37 CFR 1.183 is strictly limited to situations wherein an applicant has made a showing of an "extraordinary situation" where "justice requires" waiver of a requirement which is not also a requirement of the statutes. Applicants have presented no facts to show that an extraordinary situation exists where justice would require waiver of the rules.

37 CFR 1.84 makes clear the standards for acceptance of drawings and photographs. As stated in 37 CFR 1.84(b)(1): "The photographs must be of sufficient quality so that all details in the photographs are reproducible in the printed patent." It is unclear from the record why applicants would have the Office waive the requirement that the photographs be reproducible. Moreover, the USPTO will not normally consider an extraordinary remedy when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664 (Comm'r Pat. 1982). In this instance, the examiner provided an alternative remedy to the filing of the present petition under 37 CFR 1.183. The examiner stated that "applicant can write the Rule 1.132 Declaration describing the evidence shown in the photos and written to state the scientific and experimental data that is represented in the photos." *Interview summary mailed April 19, 2011, p. 4.* Furthermore, it does not appear that applicants are prevented from taking additional photographs of better quality. Finally, 37 CFR 1.84(b)(1) provides further relief, stating: "[i]f the subject matter of the application admits of illustration by a drawing, the examiner may require a drawing in place of the photograph."

As applicants have other suitable remedies available to them, no extraordinary situation exists where justice requires waiver of the rules. Accordingly, the petition under 37 CFR 1.183 is **DISMISSED**.

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

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

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

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

Correspondence related to this decision may also be submitted via the USPTO's Electronic Filing System.

Telephone inquiries related to this decision may be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Anthony Knight
Director
Office of Petitions

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United States Patent and Trademark Office
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ABBYY SOFTWARE LIMITED
P.O. BOX 16146
NICOSIA CY208-6 CY
CYPRUS

In re Application of
Diar Tuganbaev et al.
Application No. 10/348,222
Filed: January 22, 2003
Attorney Docket No.: ABBYY-U06

ON PETITION

This is a decision on the petition filed May 12, 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 July 31, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to abandonment, this application became abandoned November 1, 2006. Accordingly, a Notice of Abandonment was mailed February 9, 2007.

37 CFR 1.137(b)(3) however, 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 contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

This matter is being referred to Technology Center 2624 for appropriate action on the amendment filed May 12, 2011.

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 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)).

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ABBYY SOFTWARE LIMITED
P.O. BOX 16146
NICOSIA CY208-6 CY CYPRUS

In re Application of	:	
Anisimovich, et al.	:	
Application No. 10/348,225	:	DECISION
Filed/Deposited: 22 January, 2003	:	
Attorney Docket No. ABBYY-U07	:	

This is a decision on the petition filed on 26 May, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment," and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

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

As to the Allegations
of Unintentional Delay

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

Petitioner does not appear to have addressed properly the requirements under the rule. Any deficiencies must be overcome.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 22 March, 2006, with reply due absent extension of time on or before 22 June, 2006.

The application went abandoned by operation of law after midnight 22 June, 2006.

The Office mailed a Notice of Abandonment on 13 December, 2006.

On 26 May, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with an averment of unintentional delay and a statement by Marinos Dimosthenous, averred Director of the averred assignee, which statement does nothing to detail/explain how the application went and remained abandoned almost five (5) years before it came to his attention—save that:

> *** there was one person who was responsible for the prosecution of US 10/348,225 *** [and t]his person ceased to assist us with the prosecution of this application in 2008. It appears that subsequent to his departure, there was a failure to prosecute US 10.338,225 doe to administrative error in tracking the application.[1]

The statement does nothing to address the period from abandonment after midnight 22 June, 2006, until the "person ceased to assist [assignee] with the prosecution of this application in 2998[,]" and no explanation of the "administrative error in tracking the case. The petition must be dismissed for failure to satisfy the statement/showing requirement under the Rule.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] Marinos Dimosthenous declaration at page 1, items 4 and 5.

[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. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

As to Allegations of Unintentional Delay

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

---

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As discussed above, it does not appear that Petitioner has satisfied the requirements under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

CONCLUSION

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

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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AUG 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Anisimovich, et al.	:	
Application No. 10/348,225	:	DECISION
Filed/Deposited: 22 January, 2003	:	
Attorney Docket No. ABBYY-U07	:	

This is a decision on the petition filed on 18 July, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

NOTE:

Petitioner ignored the previously set forth requirement/showing.

Petitioner's continued practice in this fashion may be considered indicia of delay that is other than unintentional.

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

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment," and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

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

As to the Allegations
of Unintentional Delay

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

Petitioner does not appear to have addressed properly the requirements under the rule. Any deficiencies must be overcome.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 22 March, 2006, with reply due absent extension of time on or before 22 June, 2006.

The application went abandoned by operation of law after midnight 22 June, 2006.

The Office mailed a Notice of Abandonment on 13 December, 2006.

On 26 May, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, with an averment of unintentional delay and a statement by Marinos Dimosthenous, averred Director of the averred assignee, which statement does nothing to detail/explain how the application went and remained abandoned almost five (5) years before it came to his attention—save that:

> *** there was one person who was responsible for the prosecution of US 10/348,225 *** [and t]his person ceased to assist us with the prosecution of this application in 2008. It appears that subsequent to his departure, there was a failure to prosecute US 10.338,225 doe to administrative error in tracking the application.[1]

The statement did nothing to address the period from abandonment after midnight 22 June, 2006, until the "person ceased to assist [assignee] with the prosecution of this application in 2998[,]" and no explanation of the "administrative error in tracking the case. On 20 June, 2011, the petition was dismissed for failure to satisfy the statement/showing requirement under the Rule.

On 18 July, 2011, Petitioner re-advanced his petition (with fee) pursuant to 37 C.F.R. §1.137(b) with an averment of unintentional delay, but again failed to satisfy the requirement set forth above, to wit: detail/explain how the application went and remained abandoned almost five (5) years before it came to his attention.

[1] Marinos Dimosthenous declaration at page 1, items 4 and 5.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

---

[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. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec.

As to Allegations of
Unintentional Delay

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

As discussed above, it does not appear that Petitioner has satisfied the requirements under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

CONCLUSION

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

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

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

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

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

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).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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ABBY USA SOFTWARE HOUSE, INC.
880 N. MCCARTHY BLVD
SUITE 220
MILPITAS CA 95035-5126

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Application of :
Anisimovich, et al. :
Application No. 10/348,225 : DECISION
Filed/Deposited: 22 January, 2003 :
Attorney Docket No. ABBYY-U07 :

This is a decision on the petition filed on 18 October, 2011, and supplemented with fees on 2012, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

NOTE:

The record (including the petition filed on 26 May, 2011, on 18 July, 2011, and on 18 October, 2011) does not necessitate a finding that the delay between midnight 22 June, 2006 (the date of abandonment), and 18 October, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/ Counsel John Chandler Meline (Reg. No. 58,280) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. ' 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. ' 1.137(b) to the Patent and Trademark Office).

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 22 March, 2006, with reply due absent extension of time on or before 22 June, 2006.

The application went abandoned by operation of law after midnight 22 June, 2006.

The Office mailed a Notice of Abandonment on 13 December, 2006.

On 26 May, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, with an averment of unintentional delay and a statement by Marinos Dimosthenous, averred Director of the averred assignee, which statement does nothing to detail/explain how the application went and remained abandoned almost five (5) years before it came to his attention—save that:

> *** there was one person who was responsible for the prosecution of US 10/348,225 *** [and t]his person ceased to assist us with the prosecution of this application in 2008. It appears that subsequent to his departure, there was a failure to prosecute US 10.338,225 doe to administrative error in tracking the application.[2]

The statement did nothing to address the period from abandonment after midnight 22 June, 2006, until the "person ceased to assist [assignee] with the prosecution of this application in 2998[,]" and no explanation of the "administrative error in tracking the case. On 20 June, 2011, the petition was dismissed for failure to satisfy the statement/showing requirement under the Rule.

On 18 July, 2011, Petitioner re-advanced his petition (with fee) pursuant to 37 C.F.R. §1.137(b) with an averment of unintentional delay, but again failed to satisfy the requirement set forth above, to wit: detail/explain how the application went and remained abandoned almost five (5) years before it came to his attention. The petition was dismissed on 15 August, 2011.

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[2] Marinos Dimosthenous declaration at page 1, items 4 and 5.

On 18 October, 2011, Petitioner re-advanced his petition, however, the petition required an extension of time to be timely, and that request and fee were submitted on 10 February, 2012.With this effort, Petitioner set forth an explanation of the delay, and thus sought to satisfy the requirements under the Rule: petition, fee, reply and statement/showing of unintentional delay.

As noted above, the record (including the petition filed on 26 May, 2011, on 18 July, 2011, and on 18 October, 2011) does not necessitate a finding that the delay between midnight 22 June, 2006 (the date of abandonment), and 18 October, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/ Counsel John Chandler Meline (Reg. No. 58,280) when accepting Petitioners' representation that the delay in filing the response was unintentional.[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.

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.[4]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[5],[6]

---

[3] 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 the statement required by 37 C.F.R. ' 1.137(b) to the Patent and Trademark Office).

[4] 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. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[5] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[6] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[7]

As to Allegations of
Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

The instant application is released to the Technology Center/AU 2624 for further processing in due course.

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unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[7] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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[8]) 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

[8] The regulations at 37 C.F.R. §1.2 provide:
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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
JAN 19 2011
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In re Application of	:	
Gundram Jung	:	DECISION ON PETITION
Application No. 10/348,651	:	
Filed: January 21, 2003	:	
Attorney Docket No. VIERJ81.001C1	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.182 REQUESTING WITHDRAWAL OF RECORDED TERMINAL DISCLAIMER", filed November 2, 2010.

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

Receipt of the $400 petition fee is acknowledged.

The application is being forwarded to Group Art Unit 1644. The examiner is directed to withdraw the terminal disclaimer over US Patent No. 7,538,196.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ARTHUR G. SCHAIER
CARMODY & TORRANCE LLP
50 LEAVENWORTH STREET
P.O. BOX 1110
WATERBURY CT 06721

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DEC 06 2010
OFFICE OF PETITIONS

In re Patent No. 6,893,405
Issue Date: May 17, 2005
Application No. 10/348,676
Filed: January 22, 2003
Attorney Docket No. 27879-15B

ON PETITION

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

The petition is **GRANTED**.

This patent expired on May 17, 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.

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 the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

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

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WATERBURY CT 06721

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Patent No. 6,936,011
Issue Date: August 30, 2005
Application No. 10/348,803
Filed: January 22, 2003
Attorney Docket No. 27879-16B

ON PETITION

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

The petition is **GRANTED**.

This patent expired on August 30, 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.

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 the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/349,079	01/23/2003	Takuzo Takayama	233122US2S	1113

22850 7590 11/15/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
RANGREJ, SHEETAL

ART UNIT	PAPER NUMBER
3686	

NOTIFICATION DATE	DELIVERY MODE
11/15/2011	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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NOV 14 2011

Oblon, Spivak, McClelland, Maier, & Neustadt, L.L.P.
1940 Duke Street
Alexandria, VA 22314

In re Application of: Takayama et al.	:	**DECISION ON PETITION**
Application No. 10/349,079	:	**UNDER 37 CFR 1. 181**
Filed: January 23, 2003	:	**TO CONSIDER INFORMATION**
Attorney Docket No. 233122US2S	:	**DISCLOSURE STATEMENTS**
For: EXAMINATION RESERVE SYSTEM, MAINTENANCE SERVICE SYSTEM, MEDICAL IMAGING APPARATUS, EXAMINATION RESERVE METHOD, AND MAINTENANCE SERVICE METHOD	:	

This is a decision on applicants' petition under 37 CFR 1.181, filed on September 19, 2011, requesting consideration of the previously unconsidered Information Disclosure Statements of January 23, 2003 and November 26, 2007.

The petition is **DISMISSED as Moot**.

Applicants allege that the Information Disclosure Statement of January 23, 2003 should have been considered, since the required statement of relevancy directed to the foreign language reference was included.

Applicants further allege that the Information Disclosure Statement of November 26, 2007 should also have been considered, since an English language translation of the corresponding Japanese language Office action explaining the relevance of the cited references was included.

A review of the record shows that, in the original non-final Office action dated July 21, 2008, the examiner crossed out, and did not consider, the one Japanese language reference on the Information Disclosure Statement of January 23, 2003, as well as the four Japanese language references on the Information Disclosure Statement of November 26, 2007, believing that the references need not be considered since no English language translation was provided.

However, since the necessary explanation of relevance was provided with respect to all five of these Japanese language references, the five references on the two Information Disclosure Statements in question should all have been indicated as having been considered.

Since the filing of the petition by applicants, the examiner has become aware of the error and corrected the error by considering the two previously unconsidered Information Disclosure Statements, which consideration has been indicated to applicants in the Supplemental Notice of Allowance mailed November 4, 2011 with the two considered statements attached thereto.

Thus, the subject petition was handled as a request for reconsideration and the requested relief was granted in the Office action dated November 4, 2011.

The petition is therefore **DISMISSED as MOOT** given that the issues raised in the petition are no longer pending.

Any questions or comments with respect to this decision should be forwarded to Supervisory Patent Examiner Jerry O'Connor at (571) 272-6787.

Wynn W. Coggins, Director
Patent Technology Center 3600
(571) 272-5350

wc/gjoc: 11/10/2011

LM

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HARRINGTON & SMITH
4 RESEARCH DRIVE, Suite 202
SHELTON CT 06484-6212

MAILED
AUG 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Olav TIRKKONEN, et *al.*	:	
Application No. 10/349,168	:	DECISION DISMISSING PETITION
Filed: January 23, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **019B.0045.U1 (US)**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 20, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT.**

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. 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**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until August 12, 2010. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

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 submitted is unnecessary and will be refunded in due course.

The Information Disclosure Statement and amendment has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 8/12/10 | 2 Serial/Patent # 10349768

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
✓	Other RCE 1801	RCEX	7/20/10	$ 810

7 TOTAL AMOUNT OF REFUND $ 810

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 50 -- 1 9 2 4

10 REASON:

	Overpayment •
	Duplicate Payment
✓	No Fee Due (Explanation):

Petition dismissed, ~~no request for reconsideration filed~~. application already issued

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: /Monica A. Graves/ PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

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

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

FORM PTO 1577
(01/90)

RAM Fee History Query
Revenue Accounting and Management

Name/Number: 10349168

Total Records Found: 15

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/20/2010	00016946	4	1801	$810.00	07/20/2010	DA 501924
03/24/2010	00000005	1	1453	$1,620.00	03/23/2010	DA 501924
03/24/2010	00000004	1	1504	$300.00	03/23/2010	DA 501924
03/24/2010	00000003	1	1501	$1,510.00	03/23/2010	DA 501924
10/16/2009	00000148	1	1801	$810.00	10/15/2009	CK
08/05/2008	00000044	1	1253	$1,050.00	08/04/2008	CK
12/07/2007	00000140	1	1806	$180.00	12/06/2007	CK
11/15/2007	00000061	1	1251	$120.00	11/14/2007	CK
05/10/2007	00000100	1	1251	$120.00	05/09/2007	CK
07/10/2003	00000036	1	1251	$110.00	07/08/2003	CK
07/10/2003	00000037	1	8021	$40.00	07/08/2003	CK
07/10/2003	00000034	1	1201	$840.00	07/08/2003	CK
07/10/2003	00000033	1	1202	$1,044.00	07/08/2003	CK
07/10/2003	00000032	1	1001	$750.00	07/08/2003	CK
07/10/2003	00000035	1	1051	$130.00	07/08/2003	CK

Adjustment Date: 08/13/2010 LDIEP1
07720/2010 INTEFSW 00010794 501924 10349168
01 FC:1801 810.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 7039446
Issue Date: May 2,2006
Application No. 10349573
Filed: January 22,2003
Attorney Docket No. SENS0006

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

This is a decision on the electronic petition, filed January 11,2011 ,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 11,2011 . 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)
7,039,446	2006-05-02	10/349,573	2003-01-22	SENS0006

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

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	/MAG/	Date (YYYY-MM-DD)	2011-01-11
Name	Michael A. Glenn	Registration Number	30176

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.

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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
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,196,737 :
Issue Date: March 27, 2007 :
Application No. 10/349,941 :
Filed: January 24, 2003 :
Attorney Docket No. 027066-001730US :

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

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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FISH & RICHARDSON P.C. (DC)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Application of
Hajime Kimura et al
Application No. 10/350,134
Filed: January 24, 2003
Attorney Docket No. 12732-0136001

ON PETITION

This is a decision on the petition, filed November 8, 2010 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 October 5, 2010 in the above-identified application cannot be refunded. If, however, the above-identified 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
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 Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110829

DATE : August 29, 2011

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction on Patent No.: 6,863,452

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:

O.K. to cancel claims 3, 6, 9, 12, 28, 31

/TIMOTHY THOMPSON/
Supervisory Patent Examiner.Art Unit 2835

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEETA KADAMBI
RIDDHI IP LLC
43526 GALLEGOS AVENUE
FREMONT CA 94539

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Netke et al.	:	
Application No. 10/350,258	:	DECISION ON PETITION
Filed: January 23, 2003	:	
Attorney Docket No. 11957/23	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 5, 2011, 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 August 25, 2008, as required by the Notice of Allowance and Fee(s) Due mailed May 23, 2008. Accordingly, the date of abandonment of this application is August 26, 2008. A Notice of Abandonment was mailed September 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Further, 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) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/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)
7,014,944	2006-03-21	10/350,322	2003-01-24	006679-0301450

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
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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

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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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.**

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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)).

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7014944
Issue Date: March 21,2006
Application No. 10350322
Filed: January 24,2003
Attorney Docket No. 006679-0301450

:
: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.

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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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED
NOV 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Ming Xu et al.	:	
Application No. 10/350,330	:	NOTICE
Filed: January 24, 2003	:	
Attorney Docket No. **01640359AA**	:	

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

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)
7,128,990	2006-10-31	10/350,334	2003-01-24	006679-0301451

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◉ 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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Signature	/John A. Evans/	Date (YYYY-MM-DD)	2011-03-30
Name	John A. Evans	Registration Number	44100

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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.

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In re Patent No. 7128990
Issue Date: October 31,2006
Application No. 10350334
Filed: January 24,2003
Attorney Docket No. 006679-0301451

:
: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.

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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

DEC 06 2011

OFFICE OF PETITIONS

In re Patent No. 6,689,786 :
Issued: February 10, 2004 :
Application No. 10/350,883 :
Filed: January 23, 2003 :
Atty. Dkt. No.: 021390-002031US :

NOTICE

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

The Office no longer investigates or rejects original or reissue 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 **NOT ACCEPTED**.

The request fails to comply with 37 CFR 1.33(b) in that the request is not signed by (1) A patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Any request for reconsideration must be properly submitted in accordance with 37 CFR 1.33(b).

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

CC: Denise Boylin
DENNEMEYER & CO LTD
Regent House Heaton Lane
Stockport Cheshire
England SK4 1BB

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DOWELL & DOWELL P.C.
103 ORONOCO ST.
SUITE 220
ALEXANDRIA VA 22314

MAILED
MAR 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Ross M. Angus	:	
Application No. 10/351,218	:	DECISION ON PETITION
Filed: January 27, 2003	:	
Attorney Docket No. 17194	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 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, November 27, 2009, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on April 28, 2010. A Notice of Abandonment was mailed August 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 a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114 (submitted on April 27, 2010 and the Supplemental Response filed January 24, 2011); (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 AU 3765 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendments filed April 27, 2010 and the Supplemental Response filed with the instant petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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OCT 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,342,171	:	
Issued: 03/11/2008	:	
Application No. 10/351,299	:	NOTICE
Filed: 01/23/2003	:	
Attorney Docket No. 49554/MEG/S1103	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 22, 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE, SUITE 2800
DALLAS, TX 75201-2784

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AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Daniel H. JACKSON
Application No. 10/351,469
Filed: January 24, 2003
Attorney Docket No. **58895/P002US/10206318**

DECISION ON PETITION UNDER
37 CFR 1.182 & 37 CFR 1.36(b)

This is a decision on the petition under 37 CFR 1.182, filed July 20, 2010, for Special Attention and Expedited Handing and the renewed petition under 37 CFR 1.36(b), requesting to withdraw as attorney or agent of record in the above-identified application.

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

37 CFR 1.182 provides that 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, subject to such other requirements as may be imposed and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the $400 petition fee set forth in § 1.17(f).

The petitions under 37 CFR 1.36(b) 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 Rutherford Viguet on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed June 22, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **DEEP NINES, INC.**
14643 DALLAS PARKWAY, SUITE 150
DALLAS, TX 75254

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MAILED
MAY 20 2011
OFFICE OF PETITIONS

NORTH OAKS PATENT AGENCY
45 ISLAND ROAD
NORTH OAKS MN 55127

In re Application of
KASRIEL, STEPHANE
Application No. 10/351,875
Filed: January 27, 2003
Attorney Docket No. **D33-025-02-US**

DECISION ON PETITION

This is a decision on the petition, filed March 15, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action of April 26, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 16, 2011.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Notice of Appeal) was received by the office on October 25, 2010, with a request for three (3) month extension of time. A review of the application file record confirms the receipt of this reply with the fees for a three (3) month extension of time, on October 25, 2010. Thus, the application is not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

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

This application is being referred to Technology Center AU 2175 for appropriate action in the normal course of business on the reply received October 25, 2010.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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AUG 02 2010

OFFICE OF PETITIONS

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of	:	
Kingsman et al.	:	
Application No. 10/351,938	:	ON APPLICATION FOR
Filed: January 27, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 674523-2004.1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b), filed January 21, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is at a minimum one thousand eight hundred nine (1809) days, not four hundred sixty-four (464) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants dispute the length of the period of adjustment associated with the Interference Proceeding Delay and assert they are entitled a 13 day adjustment for the Office's delay in acting on the application not later than 4 months after the date of a final decision by the Board of Patent Appeals and Interferences.

To the extent that applicants request 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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). 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 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, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicants otherwise request 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 PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is FOUR HUNDRED SIXTY-NINE

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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.

(469) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On October 21, 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 is 464 days. On January 21, 2010, applicants timely submitted the instant application for reconsideration of patent term.

First, applicants argue that the Office failed to correctly determine the adjustment due to the Interference Proceeding Delay, pursuant to 37 CFR 1.703(c)(1). Applicants assert they are entitled to the number of days in the period beginning on the date an interference was declared to involve the application in the interference, February 18, 2009, and ending on the date that the interference was terminated with respect to the application, June 8, 2009. The Office concurs with applicants' assertion. Accordingly, the period of patent term adjustment due to the Interference Proceeding Delay is 111, not 110, days. The period of adjustment of 110 days will be removed from the record, and a period of adjustment of 111 days is being entered.

Second, applicants argue that they are entitled to a 13 day period of adjustment due to the failure of the Office to act on an application not later than 4 months after the date of a final decision by the Board of Patent Appeals and Interferences. On June 8, 2009, the Board mailed an interference decision favourable to applicants. The Office did not act on the application under October 21, 2009. A period of adjustment of 13 days, beginning on the day after four months after the Board decision was mailed, October 9, 2009, and ending on October 21, 2009, the date a Notice of Allowance was mailed, is being entered.

A review of PTA calculations for the application has revealed a basis for reduction in patent term adjustment. After applicants filed a reply on September 26, 2006 to a non-final Office action, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on October 5, 2006. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed October 5, 2006, reveals that applicants did not include a statement under 37 CFR 1.704(d).[2]

---

[2] Pursuant to 37 CFR § 1.704(d):

Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The patent term adjustment should have been reduced by 9 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on September 27, 2006, the day after the date the initial reply was filed, and ending on the date that the IDS was filed, October 5, 2006. Accordingly, a period of reduction of 9 days will be entered.

In view thereof, the determination of patent term adjustment at the time of mailing of the Notice of Allowance is **469 days** (710 (586+111+13) days of Office delay - 241 (77+9+92+63) days of applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e).

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 Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

PALM INTRANET

Day : Monday
Date: 8/2/2010
Time: 09:39:32

PTA Calculations for Application: 10/351938			
Application Filing Date:	01/27/2003	PTO Delay (PTO):	696
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	232
Post-Issue Petitions:	0	Total PTA (days):	469
PTO Delay Adjustment:	5		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
120	08/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	5		
106	10/21/2009	MAIL NOTICE OF ALLOWANCE			
105	10/20/2009	ISSUE REVISION COMPLETED			
104	10/20/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
103	10/20/2009	CASE DOCKETED TO EXAMINER IN GAU			
102	10/20/2009	DOCUMENT VERIFICATION			
101	10/05/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
100	10/15/2009	NOTICE OF ALLOWABILITY			
99	06/08/2009	MAIL INTERFERENCE DECISION - FAVORABLE			
98	06/08/2009	INTERFERENCE DECISION ON PRIORITY - FAVORABLE	110		92
97	10/06/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	12/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
92	02/18/2009	DECLARATION OF INTERFERENCE			
90	06/12/2008	INTERFERENCE INITIAL MEMO DISPOSAL			
89	12/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	12/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	11/08/2007	MISCELLANEOUS INCOMING LETTER			
86	11/09/2007	INTERFERENCE INITIAL MEMO DISPOSAL			
85	10/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
83	10/26/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

82	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
81	10/19/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
80	10/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	10/19/2007	MAIL NOTICE OF WITHDRAWN ACTION			
77	10/19/2007	MAIL NON-FINAL REJECTION			
76	10/15/2007	NON-FINAL REJECTION			
75	10/15/2007	DATE FORWARDED TO EXAMINER			
74	10/15/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
73	09/21/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
72	09/21/2007	MAIL FINAL REJECTION (PTOL - 326)			
71	09/17/2007	FINAL REJECTION			
70	08/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	08/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		63	58
68	08/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	05/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	08/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	08/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	08/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	08/07/2007	DATE FORWARDED TO EXAMINER			
61	08/06/2007	SUPPLEMENTAL RESPONSE			
60	07/11/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	07/02/2007	DATE FORWARDED TO EXAMINER			
58	06/18/2007	RESPONSE AFTER NON-FINAL ACTION		92	53
57	06/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	01/27/2003	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
54	01/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	12/18/2006	MAIL NON-FINAL REJECTION			
52	12/11/2006	NON-FINAL REJECTION			
51	10/05/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	10/05/2006	REFERENCE CAPTURE ON IDS			
49.7	10/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	10/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	09/26/2006	NEW OR ADDITIONAL DRAWING FILED			
47	10/16/2006	DATE FORWARDED TO EXAMINER			
46	09/26/2006	RESPONSE AFTER NON-FINAL ACTION			
45	10/16/2006	MAIL NOTICE OF WITHDRAWN ACTION			
44	06/26/2006	MAIL NON-FINAL REJECTION			
43	06/26/2006	NON-FINAL REJECTION			
35	06/22/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
34	06/08/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
33	05/31/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	05/18/2006	MAIL NON-FINAL REJECTION			
31	05/15/2006	NON-FINAL REJECTION			
30	04/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	04/21/2006	REFERENCE CAPTURE ON IDS			
28.7	04/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		77	22
28	04/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/31/2006	DATE FORWARDED TO EXAMINER			
25	03/23/2006	SUPPLEMENTAL RESPONSE			
24	02/03/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
23	03/31/2006	DATE FORWARDED TO EXAMINER			

22	02/03/2006	RESPONSE AFTER NON-FINAL ACTION			
21.7	03/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	03/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/21/2006	PARALEGAL TD ACCEPTED			
19	01/19/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	11/03/2005	MAIL NON-FINAL REJECTION	586		-1
17	10/31/2005	NON-FINAL REJECTION			
16	08/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	01/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	10/08/2003	APPLICATION RETURN FROM OIPE			
12	10/08/2003	APPLICATION IS NOW COMPLETE			
11	10/08/2003	APPLICATION RETURN TO OIPE			
10	10/08/2003	APPLICATION DISPATCHED FROM OIPE			
9	10/08/2003	APPLICATION IS NOW COMPLETE			
8	06/06/2003	ADDITIONAL APPLICATION FILING FEES			
7	06/06/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	04/11/2003	SEQUENCE ERRORS			
5	04/02/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	03/14/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	02/07/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	01/27/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	01/27/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/352,078	01/28/2003	Makoto Saito	6057-46735	4232

35690 7590 05/25/2011
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER
LE, NANCY LOAN T

ART UNIT	PAPER NUMBER
3621	

NOTIFICATION DATE	DELIVERY MODE
05/25/2011	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_docketing@intprop.com
ptomhkkg@gmail.com

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MAY 24 2011

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

In re Application of	:	DECISION ON PETITION
Makoto Saito	:	REGARDING WITHDRAWAL OF A
Application No. 10/352,078	:	REQUIREMENT FOR RESTRICTION
Filed: January 28, 2003	:	UNDER 37 CFR 1.144
For: DATA COPYRIGHT MANAGEMENT SYSTEM		

Applicant's petition under 37 CFR 1.144, filed October 7, 2010, requests the supervisor to withdraw the requirement for restriction made final on August 7, 2008. The delay in treating this petition is sincerely regretted.

The petition is **DISMISSED as Moot**.

A review of the file record indicates that the examiner issued an Office action on March 21, 2008 in which the examiner required restriction between 3 inventions contained in applicant's pending claims. The applicant responded by making an election with traverse on May 13, 2008. The examiner mailed a non-final Office action on August 7, 2008 that made the restriction final. The applicant filed this petition on October 7, 2008. In response to amendments filed by the applicant on October 7, 2008 and February 7, 2009, the examiner issued a new requirement for restriction on May 13, 2009. The applicant again elected with traverse on June 15, 2009. On September 4, 2009 the examiner issued yet another requirement for restriction. The applicant responded with an election made **without traverse** on December 2, 2009.

Given that in the period of time after this instant petition was filed, the applicant and the examiner apparently came to an agreement as to what claims were properly able to be restricted, the disagreement as to the propriety of the requirement for restriction of March 21, 2008 is no longer at issue. The request that the supervisor withdraw the requirement for restriction made final on August 7, 2008 is therefore **DISMISSED as Moot** for the reasons given above.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

snm/snm: 5/19/11

SM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 11/1/10

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/352233 Patent No.: 7749818 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 – 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: All changes are approved.

Marc A Smith Spe 2823

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

MAILED
JUN 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Rosenberg, et al.	:	DECISION ON APPLICATION
Application No. 10/352,687	:	FOR
Filed: January 28, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 101896-0155	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed May 31, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from nine hundred and forty-two (942) days to eight hundred and sixty-five (865) days.

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 of the mailing of the Notice of Allowance is **eight hundred and eighteen (818) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 8, 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 (PTA) to date is nine hundred and forty-two (942) days. On May 31, 2011, applicants timely submitted the instant application for patent term adjustment[1].

[1] The Office records show applicants paid the issue fee on May 31, 2011.

By the instant petition, applicants requests that the patent term adjustment be changed to 865 days. Applicants offer two reasons for the change to the patent term adjustment. Specifically, applicants state, in part:

> The Information Disclosure Statement was filed on November 17, 2010, which is 65 days after the filing of a Response on September 13, 2010. Thus, it is applicant's belief that the PTA should be reduced by 65 additional days.

Excerpt from "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed May 31, 2011, p. 2.

Applicants' argument has been considered and is well-taken, with an exception. A review of the file history reveals that a Notice of Allowance and Issue Fee Due was mailed June 15, 2010. On September 13, 2010, a Request for Continued Examination and Information Disclosure Statement was filed. This filing on September 13, 2010, was applicants response pursuant to 37 CFR 1.704(b). Patentees are advised that after the mailing of the Notice of Allowance, patentees were entitled to file a response pursuant to 37 CFR 704(b)—usually an issue fee payment or a Request for Continued Examination. With few exceptions, any paper filed after the 37 CFR 1.704(b) response that is filed prior to the mailing of a non-final Office action or a new Notice of Allowance and Issue Fee Due in response to the Request for Continued Examination warrants a reduction to the patent term adjustment under 37 CFR 1.704(c)(10)[1]. The filing of the

---

[1] 37 CFR 1.704(c)(10)provides that:

> (c) 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 periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (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 periods 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 other such paper; or
>
> (ii) Four months…

Information Disclosure Statement on November 17, 2010, warrants a reduction to the patent term adjustment under 37 CFR 1.704(c)(10) as the statement was filed after the Notice of Allowance and Issue Fee Due was mailed, prior to the mailing of a non-final Office action or new Notice of Allowance, and after applicants filed the response under 37 CFR 1.704(b). Further, the Information Disclosure Statement did not contain a statement under 37 CFR 1.704(d). **Accordingly, it is appropriate to reduce the patent term adjustment by 112 days with said period beginning on the date the IDS was filed, November 17, 2010, and ending on the date a communication responsive to the IDS was mailed, March 8, 2011.**

Applicants also assert that the adjustment to the patent term of 12 days under 37 CFR 1.702(a)(2) for the filing of an examiner's answer to an appeal brief is unwarranted because the 12 day adjustment overlaps entirely with 984 day-adjustment entered under 37 CFR 1.702(e). Applicants' argument is well-taken as a review of the record reveals that the periods in question entirely overlap. It is, therefore, only appropriate to adjust the patent term by 984 days, rather than 984 days and 12 days. **The adjustment to the patent term of 12 days is being removed accordingly.**

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 818 days (1120 days of Office delay - 302 days of applicant delay).

Deposit account 14-1449 will be charged $200.00 for the fee set forth in 37 C.F.R. § 1.18(e). No additional fee 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 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.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10352687 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10352687

Application Filing Date	01/28/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1132
A Delays	148	PTO Manual Adjustment	-124
B Delays	0	Applicant Delay (APPL)	190
C Delays	984	Total PTA (days)	818

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
157	06/08/2011		P028	Adjustment of PTA Calculation by PTO		124	0
145	03/08/2011		MN/=.	Mail Notice of Allowance			0
144	03/04/2011		IREV	Issue Revision Completed			0
143	03/03/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
142	03/03/2011		DVER	Document Verification			0
140	03/03/2011		EX.A	Examiner's Amendment Communication			0
139	03/03/2011		N/=.	Notice of Allowance Data Verification Completed			0
138	03/02/2011		CNTA	Allowability Notice			0
141	02/28/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
135	12/20/2010		ELC_RVW	Electronic Review			0
134	12/20/2010		EML_NTF	Email Notification			0
133	12/20/2010		MCTNF	Mail Non-Final Rejection			0
132	12/15/2010		CTNF	Non-Final Rejection			0
129	11/17/2010		IDSC	Information Disclosure Statement considered			0
128	11/17/2010		RCAP	Reference capture on IDS			0
127	11/17/2010		EIDS.	Electronic Information Disclosure Statement			0
126	11/17/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
125	11/10/2010		C602	Oath or Declaration Filed (Including Supplemental)			0
122	09/16/2010		ABN9	Disposal for a RCE / CPA / R129			0
130	09/13/2010		IDSC	Information Disclosure Statement considered			0
124	09/13/2010		EIDS.	Electronic Information Disclosure Statement			0
123	09/13/2010		RCEX	Request for Continued Examination (RCE)			0
121	09/13/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
120	09/13/2010		BRCE	Workflow - Request for RCE - Begin			0
119	08/04/2010		FIDC	Finished Initial Data Capture			0
118	06/17/2010		EIDC	Export to Initial Data Capture			0
117	06/15/2010		ELC_RVW	Electronic Review			0
116	06/15/2010		EML_NTF	Email Notification			0
115	06/15/2010		MN/=.	Mail Notice of Allowance			0
114	06/10/2010		IREV	Issue Revision Completed			0
113	06/10/2010		N/=.	Notice of Allowance Data Verification Completed			0
112	06/09/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
111	06/09/2010		DVER	Document Verification			0
110	06/07/2010		CNTA	Allowability Notice			0
104	03/01/2010		ELC_RVW	Electronic Review			0
103	03/01/2010		EML_NTF	Email Notification			0
102	03/01/2010	06/22/2007	MAPDP	Mail BPAI Decision on Appeal - Affirmed in Part	984		62
101	02/25/2010		APDP	BPAI Decision - Examiner Affirmed in Part			0
100	04/06/2009		EML_NTR	Email Notification			0
99	04/06/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
97	04/02/2009		APAS	Assignment of Appeal Number			0
96	02/18/2009		APWD	Appeal Awaiting BPAI Docketing			0
95	02/10/2009		ARBP	Appeal ready for BPAI review			0
94	11/05/2008		ELC_RVW	Electronic Review			0
93	11/05/2008		EML_NTF	Email Notification			0
92	11/05/2008	06/22/2007	MAPE2	Mail Supplemental Examiner's Answer			62
91	11/03/2008		APE2	2nd or Subsequent Examiner's Answer to Appeal Brief			0
88	10/31/2008		EML_NTR	Email Notification			0
87	10/31/2008		APRD	Order Returning Undocketed Appeal to the Examiner			0
86	10/16/2008		DOCK	Case Docketed to Examiner in GAU			0
85	09/30/2008		APWD	Appeal Awaiting BPAI Docketing			0
84	03/28/2008		EML_NTR	Email Notification			0
83	03/24/2008		MRBNE	Mail Reply Brief Noted by Examiner			0
82	03/17/2008		RBNE	Reply Brief Noted by Examiner			0

81	03/13/2008		FWDX	Date Forwarded to Examiner			0
80	03/03/2008		APRB	Reply Brief Filed			0
79	02/04/2008		WCRD	Withdraw of return of appeal			0
78	02/01/2008		EML_NTR	Email Notification			0
77	02/01/2008		MM327	Mail Miscellaneous Communication to Applicant			0
76	01/28/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
75	01/22/2008		TCRD	Return of Undocketed appeal to the TC			0
74	01/22/2008		PACC	Exam. Ans. Review Complete			0
73	01/04/2008		ELC_RVW	Electronic Review			0
72	01/03/2008		EML_NTF	Email Notification			0
71	01/02/2008	12/21/2007	MAPEA	Mail Examiner's Answer	12		66
70	12/26/2007		APEA	Examiner's Answer to Appeal Brief			0
68	09/14/2007		APBR	Appeal Brief Review Complete			0
67	09/14/2007		FWDX	Date Forwarded to Examiner			0
66	08/21/2007		AP.B	Appeal Brief Filed			0
65	07/19/2007		MAPCP	Mail Appeals conf. Proceed to BPAI			0
64	07/17/2007		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
63	06/22/2007		AP.C	Request for Pre-Appeal Conference Filed			0
62	06/22/2007		N/AP	Notice of Appeal Filed			0
61	03/26/2007		MCTNF	Mail Non-Final Rejection			0
60	03/19/2007		CTNF	Non-Final Rejection			0
58	01/09/2007		FWDX	Date Forwarded to Examiner			0
57	12/12/2006		A...	Response after Non-Final Action			0
59	09/27/2006		IDSC	Information Disclosure Statement considered			0
56	09/27/2006		RCAP	Reference capture on IDS			0
55.7	09/27/2006		M844	Information Disclosure Statement (IDS) Filed			0
55	09/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
54	09/13/2006		MCTNF	Mail Non-Final Rejection			0
53	09/05/2006		CTNF	Non-Final Rejection			0
52	06/24/2006		FWDX	Date Forwarded to Examiner			0
50	06/24/2006		FWDX	Date Forwarded to Examiner			0
48	06/24/2006		ABN9	Disposal for a RCE / CPA / R129			0
51	06/12/2006		AMPR	RCE- AF Processed			0
49	06/12/2006		RCEX	Request for Continued Examination (RCE)			0
47	06/07/2006		MCTAV	Mail Advisory Action (PTOL - 303)			0
46	06/02/2006		CTAV	Advisory Action (PTOL-303)			0
45	05/24/2006		FWDX	Date Forwarded to Examiner			0
44	05/12/2006		A.NE	Amendment after Final Rejection			0
43	03/14/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
42	03/06/2006		CTFR	Final Rejection			0
41	12/20/2005		FWDX	Date Forwarded to Examiner			0
39	12/20/2005		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
40	12/15/2005		A...	Response after Non-Final Action			0
38	12/14/2005		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
37	10/06/2005		DOCK	Case Docketed to Examiner in GAU			0
36	09/22/2005		MCTNF	Mail Non-Final Rejection			0
35	09/19/2005		CTNF	Non-Final Rejection			0
34	08/01/2005		RCAP	Reference capture on IDS			0
33.7	08/01/2005	06/30/2005	M844	Information Disclosure Statement (IDS) Filed		32	30
33	08/01/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
32.7	07/28/2005		EIDS.	Electronic Information Disclosure Statement			0
32	07/28/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
31	07/08/2005		FWDX	Date Forwarded to Examiner			0
30	06/30/2005		A...	Response after Non-Final Action			0
21	04/05/2005		MCTNF	Mail Non-Final Rejection			0
20	04/04/2005		CTNF	Non-Final Rejection			0
29	02/18/2005		RCAP	Reference capture on IDS			0
28.7	02/18/2005	12/21/2004	M844	Information Disclosure Statement (IDS) Filed		59	18
28	02/18/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
19	01/13/2005		FWDX	Date Forwarded to Examiner			0
18	12/21/2004	09/13/2004	ELC.	Response to Election / Restriction Filed		99	15
17	12/14/2004		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
27.7	11/02/2004		EIDS.	Electronic Information Disclosure Statement			0
27	11/02/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
16	10/04/2004		FWDX	Date Forwarded to Examiner			0
26.7	09/16/2004		EIDS.	Electronic Information Disclosure Statement			0
26	09/16/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
15.1	09/13/2004		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
15	09/13/2004		ELC.	Response to Election / Restriction Filed			0
14	09/13/2004		WAMD	Workflow incoming amendment IFW			0
13	08/11/2004	03/28/2004	MCTRS	Mail Restriction Requirement	136		0.5
12	08/09/2004		CTRS	Restriction/Election Requirement			0
25	03/24/2004		RCAP	Reference capture on IDS			0
24.7	03/24/2004		M844	Information Disclosure Statement (IDS) Filed			0
24	03/24/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
11	02/23/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
10	02/23/2004		RCAP	Reference capture on IDS			0
9.7	01/26/2004		M844	Information Disclosure Statement (IDS) Filed			0
9	01/26/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
8.7	11/17/2003		M844	Information Disclosure Statement (IDS) Filed			0
8	11/17/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
23	06/19/2003		RCAP	Reference capture on IDS			0
22.7	06/19/2003		M844	Information Disclosure Statement (IDS) Filed			0
22	06/19/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
6	04/08/2003		DOCK	Case Docketed to Examiner in GAU			0
5	03/13/2003		OIPE	Application Dispatched from OIPE			0
4	03/11/2003		COMP	Application Is Now Complete			0
2	02/05/2003		SCAN	IFW Scan & PACR Auto Security Review			0

1	01/28/2003	IEXX	Initial Exam Team nn	0
0.5	01/28/2003	EFILE	Filing date	0

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OCT 20 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,988,698	:	DECISION ON REQUEST
Rosenberg, et al.	:	FOR
Issue Date: August 2, 2011	:	RECONSIDERATION OF
Application No.10/352,687	:	PATENT TERM ADJUSTMENT
Filed: January 28, 2003	:	and
Atty Docket No. **101896-0155**	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 3, 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 eight hundred and eighty-eight (888) 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 and ninety-nine (999) days is **GRANTED to the extent indicated herein.**

Given due consideration of the instant petition, and a review of the record, the patent term adjustment is determined to be 999 days (**456** days of "A" delay" + **134** "B" delay + **984** days of "C" delay - **320** days of overlap - **255** (99 + 59 + 32 + 65) days of applicant delay.

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.

Deposit account 10-0750 will be charged $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 matter 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 **nine hundred and ninety-nine (999) 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 : 7988,698 B2

DATED : Aug. 2, 2011

INVENTOR(S) : Rosenberg 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 (876) days

Delete the phrase "by 876 days" and insert – by 999 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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FEB 14 2011
OFFICE OF PETITIONS

MARJAMA MULDOON BLASIAK & SULLIVAN LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE NY 13202

In re Application of :
Krohn :
Application No. 10/352,690 : NOTICE
Filed: January 28, 2003 :
Attorney Docket No. 1179-010 :

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.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

CC: PETER BILINSKI
Hiscock & Barclay LLP
One Park Place
300 South State Street
Syracuse, NY 13202--207

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

Bib Data Sheet

CONFIRMATION NO. 5391

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/352,690	01/28/2003 RULE	411	3677	1179-010

APPLICANTS

Burghardt Krohn, Ammersbek, GERMANY;

**** CONTINUING DATA ****************************

**** FOREIGN APPLICATIONS ************************

GERMANY 102 03 282.3 01/29/2002

IF REQUIRED, FOREIGN FILING LICENSE GRANTED

** 03/10/2003

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed 35 USC 119 (a-d) conditions met Verified and Acknowledged	☐ yes ☐ no ☐ yes ☐ no ☐ Met after Allowance Examiner's Signature Initials	GERMANY	2	22	2

ADDRESS

20874

TITLE

FASTENING MEANS AND PROCESS FOR ITS MANUFACTURE

FILING FEE RECEIVED		
758	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

UNITED STATES 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 : July 19, 2011

Patent No. :6922902
Inventor :Kenneth Schierbeek, et al.
Patent Issued :August 2, 2005
Title :VEHICLE COMPASS COMPENSATION

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 claims with respect to applicants request; the certificate of correction is incorrect. It replaces the claims with the same language. Although the USPTO in error did not print the most recent 7/17/04 claims after discussion with the attorney and other corrections needed, it was deemed that it would be better if the attorney filed a supplemental certificate of correction.

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 (571) 272-9005.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (572) 272- 9505

VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

/arg

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 08/03/2010

Applicant	: Hang Li	: DECISION ON REQUEST FOR
Patent Number	: 7656936	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/352,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2089** 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
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DIW Apr-11

MAILED
APR 13 2011
OFFICE OF PETITIONS

LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Brittan L. Pasloske	:	
Application Number: 10/352,806	:	ON PETITION
Filing Date: 01/28/2003	:	
Attorney Docket Number: 6533US	:	
	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.183 REQUESTING WAIVER OF THE REQUIREMENT UNDER 37 C.F.R. § 1.64 and the REQUEST FOR CORRECTION OF INVENTORSHIP UNDER 37 C.F.R. §1.48(a), both filed on June 30, 2008, which are treated as (a) a petition to amend the inventive entity by the addition of Quoc Hoang as an inventor; and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64, which requires that a named inventor execute a supplemental declaration.

The Office apologizes for the delay in responding to the subject petition and regrets any inconvenience to petitioners.

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.

On January 28, 2003, the above-identified application was filed.

On May 6, 2003, a declaration under 37 CFR 1.63 was filed, naming Brittan L. Pasloske as the sole inventor.

On June 30, 2008, the subject petitions were filed. Petitioners seek to add Quoc Hoang as a joint inventor. Petitioners further request waiver under 37 CFR 1.183 of 37 CFR 1.64 in that inventor

Pasloske refuses to sign the supplemental declaration naming the actual inventors as required by 37 CFR 1.48(a)(3).

Petition Under 37 CFR 1.183 to waive 1.64.

Petitioners assert that inventor Pasloske has refused to sign the declaration naming him and the person sought to be added as a named inventor, as joint inventors.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

This application bears an original Declaration executed by joint inventor Pasloske and, thus, the provisions of 37 CFR 1.47 do not apply with regard to Pasloske's signature. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

In this regard, petitioners have not shown that the supplemental declaration, naming Pasoloke and Hoang as joint inventors, was ever sent or given to Pasloske for his signature. Rather, the Rule 1.48 request simply states that

> Applicant's representative has been informed by the assignee of record, Apoplera Corporation, that Brittan L. Pasloske refuses to sign the joint Declaration, as Mr. Pasloske disagrees that Mr. Hoang is an inventor of the currently claimed invention.

Petitioner must provide proof that the supplemental Declaration was sent or given to the non-signing inventor.[1] Petitioners may provide proof by presenting a copy of the cover letter transmitting the supplemental declaration to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, petitioner must provide acceptable proof that the inventor refuses to sign the supplemental Declaration.[2] If the

---

[1] See MPEP 409.03(d).
[2] Id.

inventor has refused in writing, a copy of the written refusal must be provided with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in affidavit or declaration of facts.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks item (2) in that the signature of inventor Pasloske is not included on the declaration. Further, as stated above, petitioners have not provided the showing required to waive, pursuant to 37 CFR 1.183, the requirement for Pasloske's signature on the declaration.

Accordingly, the petition is dismissed without prejudice to reconsideration pending submission of acceptable proof that the declaration was sent or given to Pasloske for his signature, but that he either refused or could not be found to sign the supplemental declaration naming the actual inventors.

Receipt of the required fees is acknowledged. No additional fees are due.

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

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

By FAX: (571) 273-8300
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 using the EFS-Web System of the USPTO.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Aug-11

LIFE TECHNOLOGIES CORPORATION
5791 VAN ALLEN WAY
CARLSBAD CA 92008

MAILED
AUG 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Pasloske et al.	:	
Application No. 10/352,806	:	ON PETITION
Filed: 01/28/2003	:	
Attorney Docket No. 6533US	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION UNER 37 C.F.R. § 1.183 REQUESTING WAIVER OF THE REQUIREMENT UNDER 37 C.F.R. § 1.64, filed on June 13, 2011, which is treated as a renewed petition to (a) amend the inventive entity by the addition of Quoc Hoang as an inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 in that it requires that that a named inventor execute a supplemental declaration.

The petition is **GRANTED**.

Petition Under 37 CFR 1.183 to waive § 1.64.

Petitioners again assert that a copy of the supplemental declaration naming, Britt Pasloske and Quog Hoang as joint inventors, was sent to the named inventor, Pasloske. However, inventor Pasloske sent back an email reply stating that he did not believe that the person sought to be added as an inventor, Quoc Hoang, had contributed substantially to the conception of the invention. Petitioners have shown that an additional email was sent to Pasloske explaining why petitioners believe that Quoc Hoang is an inventor of the subject application. In reply, however, inventor Pasloske, sent a return email again stating that he "is not convinced" that Quoc Hoang is an inventor, and was refusing to sign the declaration.

In view of the efforts recounted in the petition to obtain the signature of Britt Pasloske, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed on June 30, 2008.

Petition Under 37 CFR §§ 1.183 and 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

In view of the efforts recounted above to obtain the signature of Britt Pasloske, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent required by 37 CFR 1.48

As a result of papers filed on June 30, 2008, and June 13, 2011, 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)(2).

The inventorship of this application has been changed by the addition of: Quoc Hoang, Austin, Texas.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioners' convenience.

No additional petition fees are due.

The application is referred to Technology Center Art Unit 1637 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: 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
10/352,806	01/28/2003	1637	974	6533US	70	5

CONFIRMATION NO. 8420

CORRECTED FILING RECEIPT

68163
LIFE TECHNOLOGIES CORPORATION
5791 Van Allen Way
Carlsbad, CA 92008

OC000000049023043

Date Mailed: 08/02/2011

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)

Brittan L. Pasloske, Austin, TX;
Quoc Hoang, Austin, TX;

Power of Attorney: The patent practitioners associated with Customer Number 68163

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/352,402 01/28/2002

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: 04/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/352,806**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Crude biological derivatives competent for nucleic acid detection

Preliminary Class

435

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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K&L Gates, LLP
P.O. BOX 1135
CHICAGO, IL 60690

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of
John Border, et. al.
Application No. 10/352,992
Filed: January 28, 2003
Attorney Docket No. 0361913-00926

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2011, to revive the above-identified application.

The application became abandoned for failure to timely file a reply to the final Office action mailed October 14, 2010.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Phouphanomketh Ditthavong 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.

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

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.

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 2473 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: Phouphanomketh Ditthavong
918 Prince Street
Alexandria, VA 22315

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 10/07/2010

Applicant	: Toshihiro Takagi	: DECISION ON REQUEST FOR
Patent Number	: 7636510	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/353,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **974** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/353,368	01/28/2003	Hugues Herve Hoppe	302438.1	6501

7590 01/11/2011

Katrina A. Lyon
LYON & HARR, LLP
300 Esplanade Drive. Suite 800
Oxnard, CA 93036

EXAMINER
DANIELS, ANTHONY J

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
01/11/2011	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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 11, 2011

Katrina A. Lyon
LYON & HARR, LLP
300 Esplanade Drive. Suite 800
Oxnard CA 93036

In re Application of	:	**DECISION ON PETITION**
HOPPE, HUGUES HERVE, ET AL	:	
Application No. **10/353368**	:	***ACCEPTANCE OF COLOR***
Filed **01/28/2003**	:	***DRAWINGS***
Attorney Docket No: **302438.1**	:	

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) January 28, 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.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Lyon :
Application No. 10/353,540 :
Filed: June 27, 2005 :
Attorney Docket No. 100203933-1 :
For: ADAPTIVE CHARGER SYSTEM AND METHOD

ON PETITION

This is a decision on the petition filed August 8, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to respond in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed February 14, 2004, which set forth an extendable one (1) month period for response. No reply being received in the Office, the Office contended that this application became abandoned on March 15, 2004. A Notice of Abandonment was mailed on June 27, 2005.

Petitioner asserts an amendment was filed via facsimile transmission on March 11, 2004. The Office has no record of receiving the amendment.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto; (2) a statement which attests on a personal knowledge basis to the previous timely transmission; (3) a copy of the sending unit's report confirming transmission may be used to support this statement. (4) Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

A review of the correspondence allegedly successfully transmitted to the Office on March 11, 2004 reveals that there is no certificate of transmission affixed to the correspondence. Thus, petitioner has not provided adequate evidence under 37 CFR 1.8(b) to warrant withdrawal of the holding of abandonment. A sending unit's report cannot make up for the fact that certificate of mailing practice was not utilized.

It is noted that applicant attempted to transmit the March 11, 2004 amendment to a facsimile number other than the central facsimile number. For future reference, effective December 1, 2003, all patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, with a few exceptions. The central facsimile number is (571) 273-8300. Replies to Office actions must be directed to the central facsimile number. MPEP 502.01.

The petition under 37 CFR 1.181 is **DISMISSED**. Petitioner is encouraged to file a petition to revive under 37 CFR 1.137(b).

A courtesy copy of the decision is being mailed to the attorney who filed the petition. If appropriate, a change of address should be filed in accordance with MPEP 601.03. 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 Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: LELAND WIESNER
366 CAMBRIDGE AVENUE
PALO ALTO, CA 94306

UNITED STATES 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
P.O. Box 272400
Fort Collins CO 80527-2400

MAILED
DEC 0 9 2010
OFFICE OF PETITIONS

In re Application of :
Lyon :
Application No. 10/353,540 : ON PETITION
Filed: June 27, 2005 :
Attorney Docket No. 100203933-1 :
For: ADAPTIVE CHARGER SYSTEM AND METHOD

This is a decision on the petition, filed November 12, 2010, under 37 CFR 1.137(b) to revive the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed February 14, 2004, which set forth an extendable one (1) month period for response. No reply being received in the Office, the Office contended that this application became abandoned on March 15, 2004. A Notice of Abandonment was mailed on June 27, 2005.

Applicant has submitted an amendment in reply to the February 14, 2004 Notice, an acceptable statement of the unintentional nature of the delay in responding to the February 14, 2004 Notice, and authorization to charge the petition fee to petitioner's deposit account. Deposit account no. 08-2025 is being charged $1,620.00.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2187 for consideration of the amendment filed on November 12, 2010.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Raymond J. Lillie, Esq.
c/o Carella, Byrne, Bain, Gilfillian
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Patent No. 7,541,443	:
Frewin et al.	: DECISION UPON REMAND AND
Issue Date: June 02, 2009	: RECONSIDERATION OF
Application No. 10/353,708	: PATENT TERM ADJUSTMENT
Filed: 1/29/2003	: AND NOTICE OF INTENT
Attorney Docket No. 695458-73	: TO ISSUE CERTIFICATE OF
Title: Anti-CD4 Antibodies	: 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 one thousand three hundred and sixty-six (1366) 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 three hundred and sixty-six (1366) days.

In a telephonic call with counsel for patentee, the patentee and the USPTO agreed to a determination of 1366 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 : 7,541,443

DATED : **June 2, 2009** **DRAFT**

INVENTOR(S) : Frewin 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 761 days--

Day : Monday
Date: 11/8/2010

PALM INTRANET

Time: 14:47:29

PTA Calculations for Application: 10/353708			
Application Filing Date:	01/29/2003	PTO Delay (PTO):	906
Issue Date of Patent:	06/02/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	301
Post-Issue Petitions:	0	Total PTA (days):	1366
PTO Delay Adjustment:	761		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	11/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	761		
88.5	05/13/2009	PTA 36 MONTHS			
88	06/02/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
87	05/04/2009	EXPORT TO FINAL DATA CAPTURE			
86	05/01/2009	DISPATCH TO FDC			
85	04/28/2009	MAIL-PETITION DECISION - DISMISSED			
84	04/28/2009	PETITION DECISION - DISMISSED			
83	02/09/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
82	02/04/2009	PETITION ENTERED			
81	02/04/2009	ISSUE FEE PAYMENT VERIFIED			
80	02/04/2009	ISSUE FEE PAYMENT RECEIVED			
79	01/28/2009	FINISHED INITIAL DATA CAPTURE			
78	12/24/2008	MISCELLANEOUS INCOMING LETTER		120	
77	01/02/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
76	12/26/2008	EXPORT TO INITIAL DATA CAPTURE			
74	12/22/2008	MAIL NOTICE OF ALLOWANCE			
73	12/19/2008	ISSUE REVISION COMPLETED			
69	12/17/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
68	12/17/2008	DOCUMENT VERIFICATION			
67	12/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
66	12/15/2008	EXAMINER'S AMENDMENT COMMUNICATION			
65	12/15/2008	NOTICE OF ALLOWABILITY			
64	11/17/2008	DATE FORWARDED TO EXAMINER			

63	11/03/2008	RESPONSE AFTER NON-FINAL ACTION			
62	10/08/2008	MAIL NON-FINAL REJECTION			
61	10/07/2008	NON-FINAL REJECTION			
60	06/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	07/24/2008	DATE FORWARDED TO EXAMINER			
58	06/24/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	07/24/2008	DATE FORWARDED TO EXAMINER			
56	06/24/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		82	48
55	07/24/2008	DISPOSAL FOR A RCE / CPA / R129			
54	06/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	06/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	06/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	06/24/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	04/03/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
49	03/27/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	01/03/2008	MAIL FINAL REJECTION (PTOL - 326)			
47	12/26/2007	FINAL REJECTION			
46	10/15/2007	DATE FORWARDED TO EXAMINER			
45	10/09/2007	RESPONSE AFTER NON-FINAL ACTION		81	43
44	10/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	04/20/2007	MAIL NON-FINAL REJECTION	176		39
42	04/16/2007	NON-FINAL REJECTION			
41	07/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	02/07/2007	DATE FORWARDED TO EXAMINER			
39	06/26/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
38.7	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		18	39
38	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	07/06/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
33	07/07/2006	ERROR(S) IN CRF CORRECTED BY STIC			

32	07/07/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
31	07/05/2006	DATE FORWARDED TO EXAMINER			
30.1	06/26/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
30	06/26/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
29	06/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	05/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	03/29/2006	MAIL RESTRICTION REQUIREMENT	730		-1
26	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
25	02/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	02/20/2004	MISCELLANEOUS INCOMING LETTER			
22	12/30/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	12/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
20	07/18/2003	PRELIMINARY AMENDMENT			
19	08/21/2003	APPLICATION RETURN FROM OIPE			
18	08/21/2003	APPLICATION IS NOW COMPLETE			
17	08/21/2003	APPLICATION RETURN TO OIPE			
16	08/21/2003	APPLICATION RETURN FROM OIPE			
15	08/21/2003	APPLICATION IS NOW COMPLETE			
14	08/21/2003	APPLICATION RETURN TO OIPE			
13	08/20/2003	APPLICATION RETURN FROM OIPE			
12	08/20/2003	APPLICATION IS NOW COMPLETE			
11	08/20/2003	APPLICATION RETURN TO OIPE			
10	08/20/2003	APPLICATION DISPATCHED FROM OIPE			
9	08/20/2003	APPLICATION IS NOW COMPLETE			
8	07/16/2003	ADDITIONAL APPLICATION FILING FEES			
7	07/16/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	07/16/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	07/28/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	04/18/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/03/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/12/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	01/29/2003	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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Raymond J. Lillie, Esq.
c/o Carella, Byrne, Bain, Gilfillian
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,541,443	:
Frewin et al.	: DECISION UPON REMAND AND
Issue Date: June 02, 2009	: RECONSIDERATION OF
Application No. 10/353,708	: PATENT TERM ADJUSTMENT
Filed: 1/29/2003	: AND NOTICE OF INTENT
Attorney Docket No. 695458-73	: TO ISSUE CERTIFICATE OF
Title: Anti-CD4 Antibodies	: CORRECTION
	:

This decision is a remailing of the decision mailed November 8, 2010. The Office is remailing the decision to correct the amount of days shown on the certificate of correction. The decision granted 1366 days but the certificate of correction draft errantly entered the new amount as the additional days added based upon decision, 761, and not the final determination of 1366. The Office apologizes for any inconveniences this may have caused.

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 three hundred and sixty-six (1366) 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 three hundred and sixty-six (1366) days.

In a telephonic call with counsel for patentee, the patentee and the USPTO agreed to a determination of 1366 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 : 7,541,443

DATED : **June 2, 2009** **DRAFT**

INVENTOR(S) : Frewin 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 761 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Raymond J. Lillie, Esq.
c/o Carella, Byrne, Bain, Gilfillian
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

MAILED
FEB 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,541,443	:
Frewin et al.	: DECISION UPON REMAND AND
Issue Date: June 02, 2009	: RECONSIDERATION OF
Application No. 10/353,708	: PATENT TERM ADJUSTMENT
Filed: 1/29/2003	: AND NOTICE OF INTENT
Attorney Docket No. 695458-73	: TO ISSUE CERTIFICATE OF
Title: Anti-CD4 Antibodies	: CORRECTION
	:

This decision is a remailing of the decision mailed December 20, 2010. The Office is remailing the decision to correct the amount of days shown on the certificate of correction. The decision granted 1366 days but the certificate of correction draft errantly entered the new amount as the additional days added based upon decision, 761, and not the final determination of 1366. The Office apologizes for any inconveniences this may have caused.

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 three hundred and sixty-six (1366) 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 three hundred and sixty-six (1366) days.

In a telephonic call with counsel for patentee, the patentee and the USPTO agreed to a determination of 1366 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 : 7,541,443

DATED : **June 2, 2009** **DRAFT**

INVENTOR(S) : Frewin 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 title page,

The first or sole Notice should read--

Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1366 days

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Chang H. Lee et al.	:	
Application No. 10/353,745	:	NOTICE
Patent No. 7,171,123	:	
Filed: January 28, 2003	:	
Attorney Docket No. **05489P077**		

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

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/03/2010

Applicant	: Alain Malnou	: DECISION ON REQUEST FOR
Patent Number	: 7645444	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/353,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1386** 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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FREEDMAN & ASSOCIATES
55 MURRAY STREET
SUITE 230
OTTAWA ON K1N 5M3 CA CANADA

MAILED
OCT 26 2011
OFFICE OF PETITIONS

In re Patent No. 6,698,051	:	
Issued: March 2, 2004	:	
Application No. 10/354,053	:	ON PETITION
Filed: January 30, 2003	:	
Attorney Docket No. 12M-19 US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 28, 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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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

MAILED

JUN 22 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,740,819	:	
Issue Date: June 22, 2010	:	
Application No. 10/354,201	:	
Filed: January 30, 2003	:	
Attorney Docket No. 44735	:	

This is a decision on the petition filed June 24, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee 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.

A petition under 37 CFR 3.81 requires a fee of $130. As such, this fee will be charged to petitioner's deposit account.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111031

DATE : October 31, 2011

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction on Patent No.: PP17,875

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:

The instant application was filed 1/29/03. The plant was already recognized by ZA NLI 5516 filed 6/3/02 and published 6/30/02 and ZA PBR 3520 filed 6/3/02 and published 6/30/02. Thus, this plant was previously recognized as 'Black Globe'. Because this plant has previously been recognized by ZA NLI 5516 and ZA PBR 3520 as 'Black Globe' we have kept the first recognized name as the plant's name. "the denomination proposed for registration in the United States must be the same as the denomination registered in another member state of UPOV." See MPEP 1612. Therefor, the proposed named change set forth on the Certificate of Correction is denied.

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

November 8, 2011

Patent No.: PP17,875 P3
Applicant : Angel Antonio Gargiulo
Issued : July 24, 2007
For : **GRAPEVINE DENOMINATED 'BLACK GLOBE'**
Docket No. : **W-4016**

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 1.323.

Respecting the alleged error to change the title in patent from "GRAPEVINE DENOMINATED 'BLACK GLOBE'" to "GRAPEVINE DENOMINATED '90-2391'. The instant application was filed 1/29/2003. The plant was already recognized by ZA NLI 5516 filed 6/3/2002 and published 6/30/2002 and ZA PBR 3520 filed 6/3/2002 and published 6/30/2002. Thus, this plant was previously recognized as 'Black Globe". Because this plant has previously been recognized by ZA NLI 5516 and ZA PBR 3520 as 'Black Globe' we have kept the first recognized name as the plant's name. "The denomination proposed for registration in the United States must be the same as the denomination registered in another member state of UPOV." (See MPEP 1612). Therefor, the proposed named change set forth on the Certificate of Correction is disapproved.

In view of the foregoing, you 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

JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK CO 80108

UNITED STATES 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. 7120905
Issue Date: October 10,2006
Application No. 10354898
Filed: January 29,2003
Attorney Docket No. 40101/09401

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

This is a decision on the electronic petition, filed February 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 February 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)
7,120,905	2006-10-10	10354898	2003-01-29	40101/09401

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

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 J. Marcin/	Date (YYYY-MM-DD)	2011-02-16
Name	Michael J. Marcin, Esq.	Registration Number	48198

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

DATE : February 17, 2010

TO SPE OF : ART UNIT 2167
SUBJECT : Request for Certificate of Correction for Appl. No /10/354914 Patent no.7428523

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: THE APPLICANT'S REQUESTED CHANGES HAVE BEEN APPROVED.

UNITED STATES 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. 7277673
Issue Date: October 2,2007
Application No. 10354933
Filed: January 29,2003
Attorney Docket No. 10636-011001/

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

This is a decision on the electronic petition, filed November 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 November 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)
7277673	2007-10-02	10354933	2003-01-29	ELLP.P024.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

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	/davidbogartdort50213/	Date (YYYY-MM-DD)	2011-11-18
Name	David B. Dort	Registration Number	50213

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOCKE LORD BISSELL & LIDDELL LLP
ATTN: IP DOCKETING
THREE WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Kenneth K. Sokoll	:	
Application No. 10/355,161	:	DECISION GRANTING PETITION
Filed: January 31, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1004263.162 1151-4172US1	:	

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 November 5, 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) 272-3208.

This application is being referred to Technology Center AU 1645 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **01/04/12**

TO SPE OF : ART UNIT: 3686 **Attn: O'CONNOR GERALD(JERRY) J (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/355435 Patent No.: 7848935

CofC mailroom date: 02/03/2011

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: Please check Claims
Should these amended claims be amended again or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 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: _____

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

MAILED

SEP 23 2010

OFFICE OF PETITIONS

KAUTH , POMEROY , PECK & BAILEY ,LLP
2875 MICHELLE DRIVE
SUITE 110
IRVINE CA 92606

In re Patent No. 7,017,645 :
Issue Date: March 28, 2006 :
Application No. 10/355,490 : NOTICE
Filed: January 31,2003 :
Attorney Docket No. L2:00512 :

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

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(c) 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) 272-3213.

Cheryl Gibson Baylor

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

Klarquist Sparkman, LLP
121 SW Salmon St
Suite 1600
Portland OR 97204

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Patent No. 7,557,210 :
Issue Date: July 7, 2009 :
Application No. 10/355,543 : DECISION ON PETITION
Filed: January 31, 2003 :
Inventor: Rajinder Singh et al :

This is a decision on the petition for expungement of information, filed April 12, 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.

Petitioner indicates an assignment recorded on August 15, 2005 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).

In addition, only $200.00 was paid due to the erroneous assumption that the petition was properly filed under 37 CFR 1.59. A petition under 37 CFR 1.59 applies to application files, not assignment records. Thus, a petition to expunge assignment documents is properly addressed under 37 CFR 1.182 and a fee of $400.00 is required. An additional $200.00 has been charged to petitioner's deposit account.

The request for change in power of attorney filed July 7, 2009 has been accepted.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: Gillian Gardner
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland Oregon 97204

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
10/355,543	01/31/2003	Rajinder Singh	

CONFIRMATION NO. 4843

POWER OF ATTORNEY NOTICE

Rigel Pharmaceuticals, Inc.
1180 Veterans Boulevard
San Francisco, CA 94080

OC000000043385604

Date Mailed: 09/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/07/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/cdfriedman/

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

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Klarquist Sparkman, LLP
121 SW Salmon St
Suite 1600
Portland OR 97204

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,557,210 :
Issue Date: July 7, 2009 :
Application No. 10/355,543 : DECISION ON PETITION
Filed: January 31, 2003 :
Inventor: Rajinder Singh et al :

This is a decision on the renewed petition for expungement of information, filed November 24, 2010, which is being treated as petitions under 37 CFR 1.182 to invalidate an assignment previously recorded against the above-identified application.

The renewed petition is **dismissed**. This is not a final agency action.

Petitioner indicates an assignment recorded on August 15, 2005 was erroneously filed for the above identified application and requests this assignment record be expunged from the file. Petitioner argues that expungement of the noted assignment would not affect the integrity of the assignment records because the erroneously recorded assignment was in fact a license agreement and license agreements are not assignments.

Petitioner's argument is not convincing as it based on the assumption that assignment and assignment records are one and the same. Assignment records are the records of assignment documents recorded. MPEP 313 states in part:

> **313 [R-3] Recording of Licenses, Security Interests, and Other Documents Other Than Assignments**
>
> In addition to assignments and documents required to be recorded by Executive Order 9424, documents affecting title to a patent or application will be recorded in the Assignment Division of the United States Patent and Trademark Office (Office). Other documents not affecting title may be recorded at the discretion of the *>Director<. 37 CFR 3.11(a).
> Thus, some documents which relate to patents or applications will be recorded, although they do not constitute a transfer or change of title. Typical of these documents which are accepted for recording are license agreements and agreements which convey a security interest. Such documents are recorded in the public interest in order to give third parties

> notification of equitable interests or other matters relevant to the ownership of a patent or application.
>
> The recordation of a document is not a determination of the effect of the document on the chain of title. The determination of what, if any, effect a document has on title will be made by the Office at such times as ownership must be established to permit action to be taken by the Office in connection with a patent or an application. See MPEP § 324.

Clearly, documents which are not assignments per se and do not transfer or change title may be recorded as an assignment document. Specifically identified as a type of such document is a license agreement. Therefore, expunging a license agreement that was recorded and became part of the assignment record would affect the integrity of the assignment record. Such an expungement is not allowed.

Petitioner argues that allowing the license agreement to remain in the assignment record would not allow third parties to determine title to pending applications and issued patents. However, as noted in MPEP 313 above, such documents are recorded in the public interest in order to give third parties notification of **equitable interests or other matters relevant to ownership**. This goes beyond petitioner's limited scope of concern over **title** to applications and patent.

For the reasons presented, the petition is dismissed.

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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Klarquist Sparkman, LLP
121 SW Salmon St
Suite 1600
Portland OR 97204

MAILED

APR 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,557,210	:	
Issue Date: July 7, 2009	:	
Application No. 10/355,543	:	DECISION ON PETITION
Filed: January 31, 2003	:	
Inventor: Rajinder Singh et al	:	

This is a decision on the second renewed petition for expungement of information, filed March 18, 2011, 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 **Denied**. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02.

Petitioner indicates an assignment recorded on August 15, 2005 was erroneously filed for the above identified application and requests this assignment record be expunged from the file. This second renewed petition basically repeats the same arguments presented in the previous renewed petition filed November 24, 2020. Reference is made to the petition decision mailed January 24, 2011 which dismissed that petition.

The instant petition still fails to show how expunging the assignment document recorded on August 15, 2005 would not affect the integrity of the assignment record. Petitioner is attempting to have a recorded assignment document **removed** from the assignment record. Clearly, removal of a document affects the integrity of the record. Petitioner argues that third parties would not be able to determine correct property rights in the issued patent. However, third parties would be able to review the assignment documents in their entirety and make their own determination of correct property rights. Petitioner's position is that the document recorded, a license agreement, correctly states the agreement but the Notice of Recordation is incorrect. Contrary to petitioner's statement, it would appear a corrective assignment document would provide the proper remedy by indicating exactly what the error was in the previously recorded Notice or Recordation.

For the reasons presented, the petition is denied.

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

Anthony Knight
Director,
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/30/10

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction for Appl. No.: 10355941 Patent No.: 7111209

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: _____

_____

_____

_____

_____

SPE **Art Unit** 2117

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YOUSEF DANESHVAR, MD.,
F.A.C.C.
3425 LONE PINE, RD.
WEST BLOOMFIELD MI 48323

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Youself Daneshvar	:	DECISION ON
Application No. 10/356,040	:	APPLICATION FOR
Filed: January 31, 2003	:	PATENT TERM ADJUSTMENT
For: DANESHVAR WOUND	:	
DRESSING, SUPPORT UNITS AND	:	
METHODS, MODEL JASMINE	:	

This is a decision on the "PETITION FOR DETERMINATION OF PATENT TERM ADJUSTMENT" filed on November 8, 2010, which is treated as a petition under 37 CFR 1.705(b).

The application for patent term adjustment patent is **GRANTED TO THE EXTENT INDICATED**.

The Office has updated the PALM and PAIR screen to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 1019 days. A copy of the updated PALM screen, showing the revised determination, is enclosed.

On October 6, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application, stating that the patent term adjustment to date was 0 days (192 days of Office delay and 378 days of applicant delay). This application for patent term adjustment was timely filed with or prior to payment of the issue fee.[1]

Applicant asserts that an adjustment for Office delay, from the date a notice of appeal was filed until the date of a decision of the board of appeals reversing the examination, should be entered.

Upon review, applicant is correct. On April 9, 2007, a notice of appeal was filed. On November 24, 2009, a Board decision was

[1] PALM records indicate that the issue fee was paid on January 7, 2010.

mailed affirming the examiner. On January 19, 2010, however, a request for rehearing was filed, and on July 28, 2010, a Board decision granting the request for rehearing and reversing the examiner was mailed, 1207 days after the date the notice of appeal was filed. In view of the two (2) overlapping days, from the date four (4) months after June 7, 2007, the date an appeal brief was filed, to October 9, 2007, the date an examiner's answer was mailed, an adjustment for Office delay of 1205 (1207 - 2) days will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 1019 days (1397 (192 + 1207 - 2 overlap) days of Office delay and 378 days of 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 payment of the petition fee of $200.00 as set forth in 37 CFR 1.18(e) is a requirement for consideration of a petition under 37 CFR 1.705(d). The petition fee will not be refunded.

The Office of Data Management has been advised of this decision. The application is thereby 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 if applicable, 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).

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

Encl: Copy of adjusted PAIR calculation

10/356,040	DANESHVAR WOUND DRESSING, SUPPORT UNITS AND METHODS, MODEL JASMINE	02-07-2011::10:57:20

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/356,040

Filing or 371(c) Date:	01-31-2003	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	192
A Delays:	192	PTO Manual Adjustments:	1205
B Delays:	0	Applicant Delays:	378
C Delays:	0	Total PTA Adjustments:	1019

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
94	02-07-2011	Adjustment of PTA Calculation by PTO		2	0
93	02-07-2011	Adjustment of PTA Calculation by PTO	1207		0
86	10-06-2010	Mail Notice of Allowance			0
85	10-02-2010	Issue Revision Completed			0
84	10-02-2010	Notice of Allowance Data Verification Completed			0
83	10-02-2010	Document Verification			0
82	10-01-2010	Notice of Allowability			0
81	07-28-2010	Mail BPAI Decision on Reconsideration - Granted			0
80	07-28-2010	Dec on Reconsideration - Granted			0
79	01-19-2010	Request for Reconsideration of Appeal Dec			0
77	02-17-2010	case Inherited			0
74	11-24-2009	Mail BPAI Decision on Appeal - Affirmed			0
73	11-24-2009	BPAI Decision - Examiner Affirmed			0
72	02-13-2009	Docketing Notice Mailed to Appellant			0
71	02-13-2009	Assignment of Appeal Number			0
70	12-11-2008	Appeal Awaiting BPAI Docketing			0
69	10-03-2008	Mail Reply Brief Noted by Examiner			0
68	10-02-2008	Reply Brief Noted by Examiner			0
67	01-22-2008	Case Docketed to Examiner in GAU			0
66	12-18-2007	Date Forwarded to Examiner			0
65	12-10-2007	Reply Brief Filed			0
64	10-26-2007	Exam. Ans. Review Complete			0
63	10-09-2007	Mail Examiner's Answer	2		59
62	10-01-2007	Examiner's Answer to Appeal Brief			0
61	07-11-2007	Appeal Brief Review Complete			0
60	07-11-2007	Date Forwarded to Examiner			0
59	06-07-2007	Appeal Brief Filed			0
58	06-06-2007	Mail-Petition Decision - Dismissed			0
57	01-25-2006	Petition Entered			0
56	04-09-2007	Notice of Appeal Filed		34	48
55	04-09-2007	Request for Extension of Time - Granted			0
54	03-21-2007	Mail Advisory Action (PTOL - 303)			0
53	03-19-2007	Advisory Action (PTOL-303)			0
52	03-05-2007	Case Docketed to Examiner in GAU			0
51	03-02-2007	Date Forwarded to Examiner			0
50	02-21-2007	Amendment after Final Rejection			0
49	12-29-2006	Case Docketed to Examiner in GAU			0
48	12-06-2006	Mail Final Rejection (PTOL - 326)			0
47	12-05-2006	Final Rejection			0
46	10-05-2006	Case Docketed to Examiner in GAU			0
45	09-12-2006	Date Forwarded to Examiner			0

44	09-06-2006	Response after Non-Final Action			0
43	08-25-2006	Mail Non-Final Rejection	92		39
42	08-21-2006	Non-Final Rejection			0
41	04-19-2006	Case Docketed to Examiner in GAU			0
40	02-07-2006	Date Forwarded to Examiner			0
39	01-25-2006	Response after Non-Final Action			0
38	01-10-2006	Mail Non-Final Rejection			0
37	01-09-2006	Non-Final Rejection			0
36	10-19-2005	Date Forwarded to Examiner			0
35	09-23-2005	Amendment Submitted/Entered with Filing of CPA/RCE			0
34	10-19-2005	Date Forwarded to Examiner			0
33	09-23-2005	Request for Continued Examination (RCE)			29
32	10-19-2005	Disposal for a RCE / CPA / R129			0
31	09-23-2005	Request for Extension of Time - Granted			0
30	09-23-2005	Workflow - Request for RCE - Begin			0
29	06-27-2005	Notice of Appeal Filed		4	24
28	05-03-2005	Mail Advisory Action (PTOL - 303)			0
27	04-29-2005	Advisory Action (PTOL-303)			0
26	04-14-2005	Date Forwarded to Examiner			0
25	04-12-2005	Amendment after Final Rejection			0
24	03-23-2005	Mail Final Rejection (PTOL - 326)			0
23	03-19-2005	Final Rejection			0
22	01-11-2005	Date Forwarded to Examiner			0
21	01-05-2005	Response after Non-Final Action		340	18
20	12-21-2004	Mail Notice of Informal or Non-Responsive Amendment			0
19	10-25-2004	Date Forwarded to Examiner			0
18.1	01-31-2004	Informal or Non-Responsive Amendment after Examiner Action			0
18	01-31-2004	Response after Non-Final Action			0
17	08-13-2004	Workflow incoming amendment IFW			0
16	07-07-2004	Mail Non-Final Rejection	98		-1
15	06-28-2004	Non-Final Rejection			0
14	09-29-2003	Preliminary Amendment			0
13	04-12-2004	IFW TSS Processing by Tech Center Complete			0
12	09-29-2003	Preliminary Amendment			0
11	04-06-2004	Case Docketed to Examiner in GAU			0
10	10-23-2003	Case Docketed to Examiner in GAU			0
9	05-22-2003	Transfer Inquiry to GAU			0
8	04-16-2003	Application Dispatched from OIPE			0
7	04-15-2003	Application Is Now Complete			0
5	04-15-2003	Correspondence Address Change			0
4	04-15-2003	Application Is Now Complete			0
3	04-04-2003	IFW Scan & PACR Auto Security Review			0
2	02-14-2003	IFW Scan & PACR Auto Security Review			0
1	01-31-2003	Initial Exam Team nn			0

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

AUG 17 2010

In re Application of		
LIN, SZU-MIN et al.	:	
Application No.: 10/356,050	:	DECISION ON
Filing or 371(c) Date: January 31, 2003	:	PETITION
Attorney Docket Number: JJM313CIP	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on March 3, 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 October 16, 2009 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on February 4, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on January 12, 2010. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

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

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Leland Chan
Lockheed Martin Information Systens
and Global Services
P.O. Box 49041, MS A08
San Jose CA 95161

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Dennis L. Wilson et al.	:	
Application No. 10/356,228	:	DECISION ON PETITION
Filed: January 31, 2003	:	
Attorney Docket No. 02-1010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed June 22, 2011, to revive the above-identified application and a petition under 37 CFR 1.182 for expedited handling.

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

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 22, 2007, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 23, 2007. A Notice of Abandonment was mailed on January 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay. Accordingly, the amendment 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.

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.

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

The filing of a Statement under 37 CFR 3.73(b) is necessary in order to process the power of attorney filed June 28, 2011.

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

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received June 22, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: John S. Kern
277 South Washington Street, Suite 500
Alexandria, VA 22314

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Qwest Communications International Inc.
1801 California Street, # 900
Denver CO 80202

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of
BRUCE A. PHILLIPS ET AL.
Application No. 10/356,338
Filed: January 31, 2003
Attorney Docket No. **020366-090300US**

DECISION ON PETITION

This is a decision on the petition, filed June 4, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action of July 7, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 9, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Notice of Appeal) was received by the office on November 6, 2009, with a request for one (1) month extension of time. A review of the application file record confirms the receipt of this reply with the fees for a one (1) month extension of time, on November 6, 2009. The applicant subsequently filed a timely Request for Continued Examination on June 4, 2010. Thus, the application is not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

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

This application is being referred to Technology Center AU 2468 for appropriate action in the normal course of business on the reply received June 4, 2010.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Chad E. King
Swanson & Bratschun, L.L.C.
8210 Southpark Terrace
Littleton, CO 80120

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GIBSON & DERNIER, LLP
900 ROUTE 9 NORTH, SUITE 504
WOODBRIDGE, NJ 07095

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of
Sven KOHLE
Application No. 10/356,347
Filed: January 31, 2003
Attorney Docket No. **628/2**

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 21, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **GIBSON & DERNIER, LLP** has been revoked by the assignee of the patent application on September 24, 2010. 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 the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **BLACK LOWE & GRAHAM, PLLC**
701 FIFTH AVENUE, SUITE 4800
SEATTLE, WA 98104

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Brocade-Wong Cabello Lutsch Rutherford
& Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston TX 77070

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Patent No. 8,081,642	:	DECISION ON REQUEST FOR
DEL SIGNORE et al.	:	RECONSIDERATION OF
Issue Date: December 20, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/356,392	:	
Filed: January 31, 2003	:	
Attorney Docket No. 112-0061US	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJDUSTMENT, filed on December 20, 2011, 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 seven hundred (1700) days.

The request for reconsideration of the patent term adjustment calculation is **DISMISSED.**

In the present petition, patentees acknowledge that "A Delay" is 1082 days, "B Delay" is 1098 days. Further, patentees recognize that there is no "C Delay" and Applicant Delay is 79 days. However, patentees question the calculation of 128 days of overlap between "A Delay" and "B Delay". Specifically, patentees explain:

> The A-Time calculation of 1082 days appears to include 401 days of overlap with B-Time as opposed to the 128 days of overlap indicated. A-Time and B-Time (associated

> with the first Office Action) overlap from 1-31-2006 till 3-08-2007 which is 401 days. Therefore, Applicants believe that 273 days of overlap were not properly accounted for. Applicants do not question the 79 days attributable to Applicant delay. The A-Time and B-Time amounts and calculations also appear accurate. Applicants submit that the correct PTA calculation should indicate 1700 days rather than the 1973 days indicated.

REQUEST, 12/20/11, p. 2.

A review of the PALM calculations for this application reveals that the Office was assessed 1072 days of delay pursuant to 37 CFR 1.702(a)(1) for the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), April 1, 2004, and ending on the date of mailing of the notification under 35 U.S.C. 132 (non-final Office action), March 8, 2007. The Office was assessed 10 days of delay pursuant to 37 CFR 1.702(a)(2) for the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, August 22, 2009, and ending on the date of mailing of an action under 35 U.S.C. 132 (final Office action), August 31, 2009. Additionally, the Office was assessed 1098 days of delay pursuant to 37 CFR 1.702(b) for failing to issue the patent within three years of the actual filing date of the application.

The record reveals that the periods of "A Delay" and "B Delay" overlap by 118 days, beginning on November 11, 2006, and ending on March 8, 2007. The periods of "A Delay" and "B Delay" also overlap by 10 days, beginning on August 22, 2009, and ending on August 31, 2009. Thus, the total period of overlap between "A Delay" and "B Delay" is 128 days (not 401 days as suggested by patentees).

In view of thereof, the patent properly issued with a patent term adjustment of 1973 days (1082 days of "A Delay" + 1098 days of "B Delay" - 128 days of overlap - 79 days of applicant delay).

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

UNITED STATES 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

AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Lienhart :
Application No. 10/356,408 : DECISION
Filed/Deposited: 31 January, 2003 :
Attorney Docket No. 200207989-1 :

This is a decision on the petition filed on 25 June, 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.

NOTE:

Petitioner appears to have ignored the guidance in the Commentary at MPEP §711.03(c) at to the showing requirements regarding the relief sought herein.

In lieu of that showing, Petitioner elected to dump into the record some 109 pages of documentation and told the Office to search for the information.

This is not appropriate.

Petitioner is respectfully requested to:

- review the guidance in the Commentary at MPEP §711.03(c) as to the showing required in this matter;
- provide the express statements outlined; and
- provide the two brief documents required.

Petitioners always are reminded that those registered to practice **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 inquire and

disclose.[1] Registered practitioners do not satisfy this requirement simply by placing into the statements others the required showings herein.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

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 requirements for relief under 37 C.F.R. §1.181.

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Appeal Brief mailed on 13 July, 2009 (a copy of which is enclosed herewith for Petitioner's reply on any responsive petition), with required reply due absent extension of time on or before 13 August, 2009.

The application went abandoned by operation of law after midnight 13 August, 2009.

The Office mailed the Notice of Abandonment on 23 April, 2010.

---

[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).

On 25 June, 2010, Petitioner filed (over a 22 June, 2010, certificate of mail), *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action but in the 109 pages of documents dropped into the record by Petitioner it is difficult to determine whether Petitioner provided or not the required copy of the application docket sheet and Petitioner's office due date calendar for the due date of the reply; and while a paralegal made a statement of non-receipt and a description of docketing, Petitioner failed to make the statement of:

- non-receipt at the correspondence address of record;
- search and non-discovery (to accompany his paralegal's description of the docketing system);
- sufficient reliability with a showing/statement that the due date calendar is that for Petitioner's office/firm, all to ensure, *inter alia*, that the Office action herein had not been misfiled.

Thus, Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)), and requested to comply with it.

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 as to non-receipt:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no

> such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]

***

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 **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 inquire and 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).

---

[2] *See*: MPEP §711.03(c) (I)(A).

[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).

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 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

ENCL: 13 July, 2009, Notice of Non-Compliant Appeal Brief

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/356,408	01/31/2003	Deborah A. Lienhart	200207989-1	1715

22879 7590 07/13/2009

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 07/13/2009

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

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/356,408	Applicant(s) LIENHART, DEBORAH A.	
	Examiner JARRETT	Art Unit 3624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *14 July 2008* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☐ Other (including any explanation in support of the above items):

(7) The brief must contain a clean copy of the claims on appeal in the claims appendix.

REGINALD TYSON
PATENT APPEALS SPECIALIST
571-272-1634

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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3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Lienhart	:	
Application No. 10/356,408	:	DECISION
Filed/Deposited: 31 January, 2003	:	
Attorney Docket No. 200207989-1	:	

This is a decision on the petition filed on 12 October, 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.

NOTE:

For the second time Petitioner appears to have ignored the guidance in the Commentary at MPEP §711.03(c) at to the showing requirements regarding the relief sought herein.

In lieu of that showing, Petitioner elected to dump into the record some 109 pages of documentation and told the Office to search for the information.

This is not appropriate.

Petitioner is respectfully requested to:

- review the guidance in the Commentary at MPEP §711.03(c) as to the showing required in this matter;
- provide the express statements outlined; and
- provide the two brief documents required.

Petitioners always are reminded that those registered to practice **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 inquire and

disclose.[1] Registered practitioners do not satisfy this requirement simply by placing into the statements others the required showings herein.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

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 requirements for relief under 37 C.F.R. §1.181.

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Appeal Brief mailed on 13 July, 2009 (a copy of which is enclosed herewith for Petitioner's reply on any responsive petition), with required reply due absent extension of time on or before 13 August, 2009.

The application went abandoned by operation of law after midnight 13 August, 2009.

The Office mailed the Notice of Abandonment on 23 April, 2010.

---

[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).

On 25 June, 2010, Petitioner filed (over a 22 June, 2010, certificate of mail), *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action but in the 109 pages of documents dropped into the record by Petitioner it is difficult to determine whether Petitioner provided or not the required copy of the application docket sheet and Petitioner's office due date calendar for the due date of the reply; and while a paralegal made a statement of non-receipt and a description of docketing, Petitioner failed to make the statement of:

- non-receipt at the correspondence address of record;
- search and non-discovery (to accompany his paralegal's description of the docketing system);
- sufficient reliability with a showing/statement that the due date calendar is that for Petitioner's office/firm, all to ensure, *inter alia*, that the Office action herein had not been misfiled.

Petitioner did not complete the showing required (*see*: MPEP §711.03(c)(I)), and the petition was dismissed on 17 August, 2010.

On 12 October, 2010, Petitioner re-advanced the petition petition pursuant to 37 C.F.R. §1.181, but again elected to ignore the guidance set forth in the Commentary at MPEP §711.03(c)(I) Petitioner failed to make the statement of:

- non-receipt at the correspondence address of record (stating, *inter alia*, the address set forth by Petitioner years earlier is not the required statement); and
- search and non-discovery (to accompany his paralegal's description of the docketing system).

Thus, Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)), and requested to comply with it.

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 as to non-receipt:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record

would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]

***

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 **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 inquire and disclose.[3]

---

[2] *See*: MPEP §711.03(c) (I)(A).

[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).

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.

CONCLUSION

Accordingly, the petition pursuant to 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:

Application No. 10/356,408

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of :
Lienhart :
Application No. 10/356,408 : DECISION
Filed/Deposited: 31 January, 2003 :
Attorney Docket No. 200207989-1 :

This is a decision on the petition filed on 25 January, 2011, 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.

NOTE:

For the third time Petitioner appears to have ignored the guidance in the Commentary at MPEP §711.03(c) as to the showing requirements regarding the relief sought herein.

Petitioner fails to read and respond to the guidance in the Commentary at MPEP §711.03(c) as to the showing required in this matter. For example, there is no requirement for documentation other than a docket sheet for the application in question and a due date calendar for the date on which the reply herein was due (e.g., for the Notice of Non-Compliant Appeal Brief mailed on 13 July, 2009, with required reply due absent extension of time on or before 13 August, 2009—thus, the due date calendar for that due date).

Petitioner should review the guidance in the Commentary at MPEP §711.03(c) as to the showing required in this matter and move stepwise through that guidance to make the showing required.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

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 requirements for relief under 37 C.F.R. §1.181.

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Appeal Brief mailed on 13 July, 2009 (a copy of which is enclosed herewith for Petitioner's reply on any responsive petition), with required reply due absent extension of time on or before 13 August, 2009.

The application went abandoned by operation of law after midnight 13 August, 2009.

The Office mailed the Notice of Abandonment on 23 April, 2010.

On 25 June, 2010, Petitioner filed (over a 22 June, 2010, certificate of mail), *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action but in the 109 pages of documents dropped into the record by Petitioner it is difficult to determine whether Petitioner provided or not the required copy of the application docket sheet and Petitioner's office due date calendar for the due date of the reply; and while a paralegal made a statement of non-receipt and a description of docketing, Petitioner failed to make the statement of:

- non-receipt at the correspondence address of record;
- search and non-discovery (to accompany his paralegal's description of the docketing system);

- sufficient reliability with a showing/statement that the due date calendar is that for Petitioner's office/firm, all to ensure, *inter alia*, that the Office action herein had not been misfiled.

Petitioner did not complete the showing required (*see*: MPEP §711.03(c)(I)), and the petition was dismissed on 17 August, 2010.

On 12 October, 2010, Petitioner re-advanced the petition petition pursuant to 37 C.F.R. §1.181, but again elected to ignore the guidance set forth in the Commentary at MPEP §711.03(c)(I) Petitioner failed to make the statement of:

- non-receipt <u>at the correspondence address of record</u> (stating, *inter alia*, the address set forth by Petitioner years earlier is not the required statement); and

- <u>search and non-discovery</u> (to accompany his paralegal's description of the docketing system).

Petitioner did not complete the showing required (*see*: MPEP §711.03(c)(I)), and the petition was dismissed on 4 January, 2011.

On 25 January, 2011, Petitioner re-advanced the petition pursuant to 37 C.F.R. §1.181, but again elected to ignore the guidance set forth in the Commentary at MPEP §711.03(c)(I) Petitioner and chose not to provide the docket sheet for the application in question <u>and</u> a due date calendar for the date on which the reply herein was due (e.g., for the Notice of Non-Compliant Appeal Brief mailed on 13 July, 2009, with required reply due absent extension of time on or before 13 August, 2009—thus, the due date calendar for that due date).

Thus, Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

Once again, Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)), then move stepwise through that guidance and so comply with it.

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 as to non-receipt:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record

would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

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 **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 inquire and disclose.[2]

---

[1] *See*: MPEP §711.03(c) (I)(A).

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

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.

CONCLUSION

Accordingly, the petition pursuant to 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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES 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
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Lienhart	:	
Application No. 10/356,408	:	DECISION
Filed/Deposited: 31 January, 2003	:	
Attorney Docket No. 200207989-1	:	

This is a decision on the petition filed on 13 June, 2011, 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.

NOTE:

The guidance in the Commentary at MPEP §711.03(c) states as to the showing requirements regarding the relief sought herein:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1] (Emphasis supplied.)

Petitioner has over the term of this matter elected to argue with the Office rather than provide the required reply.

[1] *See*: MPEP §711.03(c) (I)(A).

The Office will not argue with Petitioner.

The Office construes Petitioner's submission to state that:

> Petitioner's office/firm/company does not have a docketing system that produces and/or is capable of producing a due date calendar—i.e, a document itemizing replies due for Petitioner's entire office/firm/company for the date on which the reply to the 13 July, 2009, Notice of Non-Compliant Brief was due and that the documents heretofore submitted by Petitioner constitute all of the documentation available to Petitioner's office/firm/company to evidence all of the replies (to any and all Office actions) due on 13 August, 2009.

If Petitioner is in any way uncertain that this statement is completely correct, Petitioner **must** immediately make an inquiry into the matter, and, further, should that inquiry support any question as to the statement, Petitioner **must** immediately so Notice the Office.

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 **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 inquire and disclose.[2]

The petition pursuant to 37 C.F.R. §1.181 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 requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

[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).

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Appeal Brief mailed on 13 July, 2009 (a copy of which is enclosed herewith for Petitioner's reply on any responsive petition), with required reply due absent extension of time on or before 13 August, 2009.

The application went abandoned by operation of law after midnight 13 August, 2009.

The Office mailed the Notice of Abandonment on 23 April, 2010.

On 25 June, 2010, Petitioner filed (over a 22 June, 2010, certificate of mail), *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action but in the 109 pages of documents dropped into the record by Petitioner it is difficult to determine whether Petitioner provided or not the required copy of the application docket sheet and Petitioner's office due date calendar for the due date of the reply; and while a paralegal made a statement of non-receipt and a description of docketing, Petitioner failed to make the statement of:

- non-receipt at the correspondence address of record;
- search and non-discovery (to accompany his paralegal's description of the docketing system);
- sufficient reliability with a showing/statement that the due date calendar is that for Petitioner's office/firm, all to ensure, *inter alia*, that the Office action herein had not been misfiled.

Petitioner did not complete the showing required (*see*: MPEP §711.03(c)(I)), and the petition was dismissed on 17 August, 2010.

On 12 October, 2010, Petitioner re-advanced the petition pursuant to 37 C.F.R. §1.181, but again elected to ignore the guidance set forth in the Commentary at MPEP §711.03(c)(I) Petitioner failed to make the statement of: non-receipt at the correspondence address of record (stating, *inter alia*, the address set forth by Petitioner years earlier is not the required statement); and search and non-discovery (to accompany his paralegal's description of the docketing system). Petitioner did not complete the showing required (*see*: MPEP §711.03(c)(I)), and the petition was dismissed on 4 January, 2011.

On 25 January, 2011, Petitioner re-advanced the petition pursuant to 37 C.F.R. §1.181, but again elected to ignore the guidance set forth in the Commentary at MPEP §711.03(c)(I) Petitioner and chose not to provide the docket sheet for the application in question and a due date calendar for the date on which the reply herein was due (e.g., for the Notice of Non-Compliant Appeal Brief mailed on 13 July, 2009, with required reply due absent extension of time on or before 13 August, 2009—thus, the due date calendar for that due date). The petition was dismissed on 15 March, 2011.

On 13 June, 2011, Petitioner re-advanced the petition pursuant to 37 C.F.R. §1.181, and again elected to argue his position rather than submit the materials required under the Rule. As noted above, the Office will not argue with Petitioner—the Office is construing Petitioner's submission to state that:

> Petitioner's office/firm/company does not have a docketing system that produces and/or is capable of producing a due date calendar—i.e., a document itemizing replies due for Petitioner's entire office/firm/company for the date on which the reply to the 13 July, 2009, Notice of Non-Compliant Brief was due and that the documents heretofore submitted by Petitioner constitute all of the documentation available to Petitioner's office/firm/company to evidence all of the replies (to any and all Office actions) due on 13 August, 2009.

If Petitioner is in any way uncertain that this statement is completely correct, Petitioner **must** immediately make an inquiry into the matter, and, further, should that inquiry support any question as to the statement, Petitioner **must** immediately so Notice the Office.

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 as to non-receipt:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

calendar; reminder system; or the individual docket record for the application in question.[3]

***

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 **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.[4]

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[5],[6]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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[3] *See*: MPEP §711.03(c) (I)(A).

[4] 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).

[5] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[6] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[7]

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.

In view of the Office's construal of Petitioner's submission, Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted**, and the 24 April, 2010, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 3624 for further processing—it is noted that Petitioner submitted what he represented as a proper reply to the Notice of Non-Compliant Brief, and now this matter awaits 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 that change in 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.

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[7] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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[8]) 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

[8] 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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SEP 22 2010

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
One Financial Center
BOSTON MA 02111

In re Patent No. 6,916,936	:	
Issue Date: July 12, 2005	:	
Application No. 10/356,440	:	ON PETITION
Filed: January 30, 2003	:	
Attorney Docket No. **022018-002720US**	:	

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 **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.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) and $100 for the Request for Certificate of Correction has been assessed to petitioner's deposit account.

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

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[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

KENYON & KENYON
One Broadway
New York, New York 10004

In re Application of:	: **DECISION ON PETITION TO**
Akira AOKI, et al.	: **ACCEPT COLOR PHOTOGRAPHS**
Appl. No. 10/356,469	: **IN LIEU OF BLACK-AND-WHITE**
Filed: January 31, 2003	: **DRAWINGS UNDER**
For: **METHOD OF SELLING A PRODUCT OVER THE INTERNET**	:**37 C.F.R. 1.84(a)(2) and (b)(2)**

This is a decision on Applicant's Petition under 37 CFR 1.84 (a)(2) and (b)(2) received on February 3, 2003 requesting acceptance of color photographs in lieu of black-and-white drawings.

The Petition is **GRANTED.**

The applicant has further requested that the specification be amended by inserting the following paragraph on page 7, before line 12.

--The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawings will be provided by the Office upon request and payment of the necessary fee.—

This amendment will be entered.

SUMMARY: The Petition is **GRANTED.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner F. Ryan Zeender at (571) 272-6790.

/F. Zeender/
SPE 3627

FZ 9/20/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Guy J. Kelley
Hewlett-Packard Development Company, L.P.
20555 SH 249
Houston TX 77070

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Fischer, et al. :
Application No. 10/356,943 : ON PETITION
Filed: January 31, 2003 :
Attorney Docket No. 200304768-2 :
For: METHOD AND CIRCUITS FOR
EARLY DETECTION OF A FULL QUEUE

This is a decision on the petition under 37 CFR 1.181, filed July 5, 2005, to withdraw the holding of abandonment of the above-identified application.

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

The Office contended the above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed May 25, 2004, which set a three month statutory period for reply. The Office has no record of timely receiving a completed Part B Fee Transmittal/ PTOL-85(b) and the issue and publication fees. Therefore, the Office contended the application became abandoned on August 26, 2004. A Notice of Abandonment was mailed on May 4, 2005.

Petitioners assert that a proper response was in fact timely received in the Office on August 19, 2004. In support, petitioners have submitted a copy of the Part B Fee Transmittal/ PTOL-85(b) with a proper certificate of facsimile transmission affixed thereto.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The Part B Fee Transmittal/ PTOL-85(b) bears a proper certificate of mailing, dated August 19, 2004, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

In addition, petitioners have submitted an auto-reply facsimile transmission from the Office, showing that the Office received a 3 page document pertaining to this application. The first page reproduced on the auto-reply facsimile transmission is the Part B Fee Transmittal/ PTOL-85(b). It is apparent the August 19, 2004 facsimile transmission was received in the Office and later misplaced.

Therefore, the authorization to charge the issue fee and publication fees was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

Regarding fees, as authorization to charge the issue and publication fees was filed on August 19, 2004, applicants should be charged the fee amounts due at that time, rather than the fee amounts due today. The issue fee due on August 19, 2004 was $1,330.00. Applicants were charged $1,400.00. Deposit account no. 08-2025 will be credited $70.00.

After the mailing of this decision, the application will be referred to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: DAN C. HU
TROP, PRUNER & HU, P.C.
8554 KATY FREEWAY, SUITE 100
HOUSTON, TX 77024-1805

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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APR 08 2011

OFFICE OF PETITIONS

DOUGLAS B. THOMPSON
THOMPSON LAMBERT LLP
10328-81 AVENUE, SUITE 200
EDMONTON ALBERTA T6E 1X2 CA CANADA

In re Patent No. 6,877,712	:	
Issue Date: April 12, 2005	:	
Application No. 10/357,032	:	NOTICE
Filed: January 30, 2003	:	
Attorney Docket No. LAMA120522	:	

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

SAWYER LAW GROUP, P.C.
P.O. BOX 51418
PALO ALTO, CA 94303

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
MIMAR, Tibet	:	
Application No. 10/357,632	:	DECISION ON PETITION
Filed: February 03, 2003	:	TO WITHDRAW
Attorney Docket No. **4358P**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 10, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to SAWYER LAW GROUP, P.C. has been revoked by the applicant of the patent application on November 10, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **TIBET MIMAR**
385 VIA LOMA
MORGAN HILL CA 95037

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK TERRY, ESQ.
801 BRICKELL AVE., SUITE 900
MIAMI, FL 33131

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
MIMAR, Tibet	:	
Application No. 10/357,632	:	DECISION ON PETITION
Filed: February 03, 2003	:	TO WITHDRAW
Attorney Docket No. 4358P	:	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 21, 2011.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to MARK TERRY, ESQ. has been revoked by the applicant of the patent application on February 18, 2011 and re-submitted on April 01, 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 Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **TIBET MIMAR**
385 VIA LOMA
MORGAN HILL CA 95037

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sawyer Law Group, P.C.
P.O. Box 51418
Palo Alto CA 94303

MAILED

JAN 03 2011

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Mimar :
Application No. 10/357,640 :
Filed: February 3, 2003 :
Attorney Docket No. 4122P :
For: SYSTEM CYCLE LOADING AND STORING OF MISALIGNED VECTOR ELEMENTS IN A SIMD PROCESSOR

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2010, to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action, mailed February 23, 2010, which set an extendable three month period for reply. Applicant submitted an amendment after final on May 20, 2010. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the October 1, 2010 Advisory action. Accordingly, this application became abandoned on May 24, 2010. A Notice of Abandonment was mailed on October 5, 2010.

Applicant has submitted a RCE and $405.00 required fee and a request to use the previously filed amendment of May 20, 2010 as the submission in reply to the February 23, 2010 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 23, 2010 final Office action, and the $810.00 petition fee.

The petition is **GRANTED**.

This application is being referred to Technology Center AU 2183 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted.

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

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)
7,108,879	2006-09-19	10/357,726	2003-02-04	2006-498 von K 003C

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

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 S. Child, Jr./	Date (YYYY-MM-DD)	2010-11-01
Name	John S. Child, Jr.	Registration Number	28833

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. 7108879
Issue Date: September 19,2006
Application No. 10357726
Filed: February 4,2003
Attorney Docket No. VON K.003 CONT.

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

This is a decision on the electronic petition, filed November 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 November 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

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Patent No. 6,824,683 :
Issue Date: November 30, 2004 :
Application No. 10/357,836 : DECISION ON PETITION
Filed: February 3, 2003 :
Inventor: Peter Alan Logan et al. :

This is a decision on the petition under MPEP 323.01(d) , filed October 12, 2010 and amended on October 15, 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**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition for correction of inventor's name under 37 CFR 1.182. In this instance, the fee required by law is $400. The petition indicates that the petition fee is included but no fees accompanied this petition or the amended petition.

Since 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.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Bridget M. Carlson
Sears Tower-5500
233 South Wacker Drive
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Patent No. 6,824,683 :
Issue Date: November 30, 2004 :
Application No. 10/357,836 : DECISION ON PETITION
Filed: February 3, 2003 :
Inventor: Peter Alan Logan et al. :

This is a decision on the renewed petition for expungement of information, filed January 3, 2011, 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 April 3 2009 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).

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

Christopher Bottorff
Supervisor
Office of Petitions

cc: Bridget M. Carlson
Willis Tower-5500
233 South Wacker Drive
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nelson Mullins Riley & Scarborough LLP
IP Department
100 North Tryon Street
42nd Floor
Charlotte NC 28202-4000

MAILED
JAN 13 2011
OFFICE OF PETITIONS

In re Application of	:	
John Russell Euber et al.	:	
Application No. 10/358,081	:	DECISION ON PETITION
Filed: February 4, 2003	:	
Attorney Docket No. 19400/09012	:	

This is a decision on the petition, filed June 12, 2008, 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 respond to the Notice of Non-Compliant Amendment (Notice) of September 19, 2007, which set a one (1) month period for reply. A reply was due on or before October 19, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on October 5, 2007 of, *inter alia,* an amendment. A copy of the previously submitted reply accompanies the petition.

The papers acknowledged as having been received in the USPTO on October 5, 2007 are not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the amendment was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on October 5, 2007.

Petitioner notes that the Notice of Abandonment, mailed May 28, 2008, was not mailed to his customer number address. Office records show that the customer number for the address is currently 27530 which corresponds to the address as shown on the heading for this decision and is the address the Notice of Abandonment was mailed to. The record shows no request for change of correspondence address. A courtesy copy of this decision is mailed to petitioner.

This application is being referred to Technology Center AU 1612for appropriate action in the normal course of business on the reply received with petition.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Bristol-Myers Squibb Company
Patent Department
2400W. Lloyd Expressway (B604)
Evansville IN 47721-0001

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

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED
APR 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Frank Chih-Hsiang Wu	:	
Patent No. 7,269,760	:	NOTICE
Application No. 10/358,295	:	
Filed: February 5, 2003	:	
Attorney Docket No. ASTP0127USA		

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) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110811

DATE : August 11, 2011

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction on Patent No.: 7930285 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 - 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:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/13/2011

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/358,377 Patent No.: 7935285 B2

CofC mailroom date: 6/28/2011

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.

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

Comments: _____

SPE

2161
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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)
7058789	2006-06-06	10358548	2003-02-04	P17207

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

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. Draeger/	Date (YYYY-MM-DD)	2010-08-30
Name	Jeffrey S. Draeger	Registration Number	41000

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. 7058789
Issue Date: June 6,2006
Application No. 10358548
Filed: February 4,2003
Attorney Docket No. 42P17207

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

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

J. MICHAEL MARTINEZ DE ANDINO
HUNTON & WILLIAMS
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD STREET
RICHMOND VA 23219-4074

MAILED
APR 18 2011
OFFICE OF PETITIONS

In re Patent No. 6,910,591	:	
Issue Date: June 28, 2005	:	
Application No. 10/358,869	:	DECISION ON PETITION
Filed: February 05, 2003	:	
Attorney Docket No. **58177.000016**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 04, 2011, with a certificate of mailing dated January 27, 2011, 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 at midnight on June 28, 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).

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.

It is noted that the statement of delay made by John Culp who is neither an inventor nor an attorney registered to practice before the office. Also, it is not clear from the file record if John Culp is authorized to act on behalf of the assignee. Petitioner should note that an assignee must comply with the requirements of 37 CFR 3.73(b). See MPEP § 324.

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.

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.
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 Tredelle Jackson at 571-272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JOHN CULP**
MAVERICK LEASING, LLC
13301 VALENINE ROAD
NORTH LITTLE ROCK AR 72117

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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MAILED
JUL 01 2011
OFFICE OF PETITIONS

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Patent No. 6,910,591	:	:
Issue Date: June 28, 2005	:	DECISION ON PETITION
Application No. 10/358,869	:	
Filed: February 05, 2003	:	
Patentee(s): Paul Knoll et al.		

REQUIREMENT FOR ADDITIONAL INFORMATION AND/OR FEE(S) DUE

A renewed petition under 37 CFR 1.378(c) was filed on May 23, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent. It is noted that a statement under 3.73(b) signed by John Culp, was filed on May 23, 2011. However, the statement as filed is unacceptable, since it does not state the Reel and Frame number where the assignment has been recorded. Petitioner should note that an assignee must comply with the requirements of 37 CFR 3.73(b). See MPEP § 324.

The response should include a cover letter entitled "Supplemental Response to Requirement for Additional Information and/or Fee(s) Due."

At the end of the two-month period specified above, a decision will be rendered on the renewed petition under 37 CFR 1.378, including any supplemental information submitted in response to this Requirement for Additional Information. **Thereafter, no further reconsideration or review of this matter will be undertaken.**

The change of address submitted on May 23, 2011 is not accepted because the assignment does not state the Reel and Frame number where the assignment has been recorded.

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

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

Any questions concerning this matter may be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: JOHN CULP
MAVERICK LEASING, LLC
13301 VALENINE ROAD
NORTH LITTLE ROCK AR 72117

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Maverick -easing LLC
13301 Valentine Road
North Little Rock AR 72117

MAILED
DEC 08 2011
OFFICE OF PETITIONS

In re Patent No. 6,910,591	:	
Issue Date: June 28, 2005	:	
Application No. 10/358,869	:	ON PETITION
Filed: February 5, 2003	:	
Attorney Docket No. 58177.000016	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed August 12, 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 29, 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 Terri Johnson at (571) 272-2991.

The patent file is being forwarded to Files Repository.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BALLY GAMING INC.
6601 S. BERMUDA ROAD
LAS VEGAS NV 89119

MAILED
FEB 15 2012
OFFICE OF PETITIONS

In re Patent No. 7,404,765	:	
Issued: 07/29/2008	:	
Application No. 10/358,999	:	NOTICE
Filed: 02/04/2003	:	
Attorney Docket No. 110184.408	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 13, 2012, and resubmitted on January 25, 2012.

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.

/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)
7229423	2007-06-12	10359040	2003-02-05	9345.17121-CIP 3B

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

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	/Daniel D. Ryan/	Date (YYYY-MM-DD)	2011-07-28
Name	Daniel D. Ryan	Registration Number	29243

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. 7229423
Issue Date: June 12,2007
Application No. 10359040
Filed: February 5,2003
Attorney Docket No. 9345.17121-CIP 3B

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

This is a decision on the electronic petition, filed July 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 July 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

Henri Duong
316 1/2 E Glendon Way
Alhambra CA 91801

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Henri Duong	:	
Application No. 10/359,111	:	ON PETITION
Filed: February 5, 2003	:	
	:	

This is in response to the communication, filed June 14, 2011, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On September 3, 2010, the Office mailed a decision from the Board of Patent Appeals and Interferences ("Board Decision"), which set a two (2) month period to reply. The period for reply was not extendable under 37 CFR 1.136(a). Accordingly, as no claim(s) were allowed, the application became abandoned on November 4, 2010, for failure to timely submit a proper response to the Board Decision. On June 6, 2011, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment as the expiration of the period for seeking court review of the Board decision was "not a mistake caused by the appellant."

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates that a Notice of Appeal was filed on September 14, 2010 and an Appeal Brief was filed September 17, 2010 by the applicant. However, the filing of the Notice of Appeal or that of an Appeal Brief was not a proper reply to the Board Decision. As no claim(s) were allowed, a Request for Continued Examination (RCE) along with a proper submission under 37 CFR 1.114 should have been filed on or before November 3, 2010. See MPEP § 1214.06. Because a proper reply was not filed on or before November 3, 2010 the application was abandoned by law on November 4, 2010.

Therefore, as the application was properly held to have gone abandoned, the petition to withdraw the holding of abandonment is **dismissed**.

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.

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

By hand: Customer Service Window
Randolph Building

401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the Terri Johnson at (571) 272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. :7821562
Ser. No. :10/359,654
Inventor(s) :Kitada et al.
Issued :10/26/10
Title :Portable Terminal Equipped With Camera And Adapted For Self-Imaging
Docket No. :

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.

[RoChaun Johnson]
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0470 or (703) 756-1814

DAVID D'ASCENZO
DASCENZO INTELLECTUAL
PROPERTY LAW PC
522 SW 5TH AVE. SUITE 925
PORTLAND OREGON 97204
RMJ

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLIFFORD H. KRAFT
320 ROBIN HILL DR.
NAPERVILLE IL 60540

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Peter V. Boesen	:	DECISION ON PETITION
Application No. 10/359,757	:	TO WITHDRAW
Filed: February 6, 2003	:	FROM RECORD
Attorney Docket No. P03999USH	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed September 15, 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

cc: **MS. MARTHA TROUT**
C/O JAMES BOESSEN
4109 30TH STREET
DES MOINES, IA 50310

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 S.W. YAMHILL STREET
PORTLAND OR 97204

MAILED

AUG 30 2011

OFFICE OF PETITIONS

In re Application of	:	
David W. Stauffer et al	:	
Application No. 10/359,882	:	ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. STF 301	:	

This is a decision on the communication filed July 5, 2011, which is being treated as a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The above petition is being treated under 37 CFR 1.137(b). However, the Office is unclear if applicant wants the petition treated under 37 CFR 1.137(a) or 37 CFR 1,137(b). A blank copy of both petitions is being submitted with the above petition decision for applicant's review.

The petition is **DISMISSED**.

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

The application became abandoned because the period for seeking court review of the decision mailed July 24, 2008, expired and there are no allowed claims.

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

As to item (2):

The petition fee as set forth in 37 CFR 1.17(m) has not been received.

As to item (3):

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 has not been received.

Additionally, if the RCE is the only reply, applicant needs to include the fee for the RCE and meet the submission required in 37 CFR 1.114.

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

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: Blank Copy of 37 CFR 1.137(a) and 1.137(b) petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 24 2011
OFFICE OF PETITIONS

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 S.W. YAMHILL STREET
PORTLAND OR 97204

In re Application of	:	
David W. Stauffer et al	:	
Application No. 10/359,882	:	ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. STF 301	:	

This is a decision on the renewed petition filed September 29, 2011, under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned because the period for seeking court review of the decision mailed July 24, 2008, expired and there are no allowed claims.

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

As to item (1):

It is noted that applicant request a refund of the $245.00 submitted on May 10, 2011. However, as stated in the decision mailed August 30, 2011, if the RCE is the only reply, applicant needs to include the fee for the RCE and meet the submission required in 37 CFR 1.114.

As to item (2):

The petition fee as set forth in 37 CFR 1.17(m) has not been received. The petition fee for the above petition under 37 CFR 1.137(b) is $930.00 (as of September 26, 2011) and not the $810.00 submitted on September 29, 2011

In view of the above, applicant owes the below:

Petition fee **$120** ($930 - $810)

Request for Continued Examination (RCE) **$220** ($465 - $245).

A total of $120 + $220 = **$340.00** is owed

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

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 S.W. YAMHILL STREET
PORTLAND OR 97204

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
David W. Stauffer et al	:	
Application No. 10/359,882	:	ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. STF 301	:	

This is a decision on the renewed petition filed November 17, 2011, under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned because the period for seeking court review of the decision mailed July 24, 2008, expired and there are no allowed claims.

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

As to item (1):

The petition was signed by only one inventor. Applicant is encouraged to note 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.

As to item (2):

The petition is dismissed because finance records show an insufficient payment by check or money order on November 17, 2011. A total remaining due from applicant is $245.00. No authorization was provided to charge to a deposit account.

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FEB 10 2012
OFFICE OF PETITIONS

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 S.W. YHAMHILL STREET
PORTLAND OR 97204

In re Application of	:	
David W. Stauffer et al	:	
Application No. 10/359,882	:	DECISION ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. STF 301	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned because the period for seeking court review of the decision mailed July 24, 2008, expired and there are no allowed claims.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) with fee and submission in the form of remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

As to the request for refund:

Applicants request a refund of $585.00. A review of Office finance records show that the only available funds that can be refunded is $245.00 and not the $585.00 as applicant requested. Therefore, a total of $245.00 is being refunded by check as it is the method in which the fee was paid.

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
SEP 19 2011
OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of :
Jallad et al. :
Application No. 10/360,001 :
Filed: February 6 2003 :
Attorney Dkt. No. 20150-204931 :
For: FOLATE TARGETED ENHANCED :
TUMOR AND FOLATE RECEPTOR :
POSITIVE TISSUE OPTICAL IMAGING :
TECHNOLOGY

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 (d)" filed September 7, 2011. In light of the submission of this request with the issue fee and prior to the issuance of the patent, this request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from forty-three (43) days to two hundred twenty-five (225) 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.

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].

---

[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.

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 matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
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

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

In re Patent No. 7,160,399	:	
Issue Date: January 9, 2007	:	
Application No. 10/360,204	:	NOTICE
Filed: February 6, 2003	:	
Attorney Docket No. 04019.00029	:	

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

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(c) 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) 272-3213.

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. 7236758
Issue Date: June 26,2007
Application No. 10360481
Filed: February 7,2003
Attorney Docket No. 6506P001

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

This is a decision on the electronic petition, filed August 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 August 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.

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)
7236758	2007-06-26	10360481	2003-02-07	6506P001

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

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	/Kevin G. Shao/	Date (YYYY-MM-DD)	2011-08-23
Name	Kevin G. Shao	Registration Number	45095

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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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBROUGH, MA. 01581

MAILED
AUG 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Larry APFELBAUM	:	
Application No. 10/360,572	:	DECISION ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. OID08-21	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 6, 2007, 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 5, 2006, 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 6, 2007.

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 $750.00, 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 2134 for appropriate action by the examiner in the normal course of business on the reply received

Thurman K. Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DYKAS & SHAVER LLP
P.O. BOX 877
BOISE ID 83701-0877

In re Patent No. 6,839,965	:	
Issued: January 11, 2005	:	
Application No. 10/360,575	:	ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. RTEC109	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 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.

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
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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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Maurice Bailey
2428 Peace Point Trail
Hoschton, Georgia 30548

UNITED STATES PATENT AND TRADEMARK OFFICE

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DYKAS & SHAVER LLP
P.O. BOX 877
BOISE ID 83701-0877

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MAY 18 2011
OFFICE OF PETITIONS

In re Patent No. 6,839,965	:	
Issued: January 11, 2005	:	
Application No. 10/360,575	:	ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. RTEC109	:	

REQUIREMENT FOR INFORMATION

A renewed petition was filed on April 27, 2011 under 37 CFR 1.378 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).

[ ] The instant petition is not signed by a person authorized to sign a petition under 37 CFR 1.378 in the above-identified patent. 37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 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.

[X] **The instant petition appears to be on behalf of the assignee; however, 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 with this requirement for information.

Petitioner has submitted a renewed 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.

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.

In order to expedite reinstatement of this patent, petitioner may wish to consider submitting the reply to the requirement for information by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

A courtesy copy of this decision is being mailed to the address on the petition; however, all future correspondence will be mailed solely to the address of record.

By Mail: Mail Stop PETITIONS
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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/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96 – Statement under 37 CFR 3.73(b)

cc: Maurice Bailey
2428 Peace Point Trail
Hoschton, Georgia 30548

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DYKAS & SHAVER LLP
P.O. BOX 877
BOISE ID 83701-0877

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JUL 06 2011
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In re Patent No. 6,839,965	:	
Issued: January 11, 2005	:	
Application No. 10/360,575	:	DECISION ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. RTEC109	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed May 19, 2011 and June 13, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 12, 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.

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 delay in filing a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

Additionally, 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. 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. 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: Maurice Bailey
2428 Peace Point Trail
Hoschton, Georgia 30548

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

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OCT 01 2010

OFFICE OF PETITIONS

In re Application of
George DEVRIES, et al.
Application No. 10/360,720
Filed: February 10, 2003
Attorney Docket No. **111828-00104**

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 26, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application. In this regard, the address submitted is that of an assignee.

The Office will only accept correspondence address changes 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, the most current address information provided for the first named inventor. 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.***

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 3.73(b) statement submitted on August 17, 2009 contained the chain of title from the original owner to the assignee in the prior filed application 10/558,901, not that of the above continuation application.

All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a change of correspondence address containing a proper 3.73(b) statement has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center at 571-272-1600.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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AUG 25 2011
OFFICE OF PETITIONS

Wyatt, Gerber & O'Rourke, L.L.P.
99 Park Avenue
New York NY 10016

In re Patent No. 6,942,569	:	
Issue Date: September 13, 2005	:	
Application No. 10/360,792	:	ON PETITION
Filed: June 11, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 10, 2011 to accept the unintentionally 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 above, 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 () above.

As to item (3) the petition under 1.378(c) requires a fee of $1,640. Deposit account no. 23-3428 did not have sufficient funds to pay the amount due.

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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WYATT, GERBER & O'ROURKE L.L.P.
99 PARK AVENUE
NEW YORK NY 10016

MAILED

OCT 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,942,569 :
Issue Date: September 13, 2005 :
Application No. 10/360,792 : ON PETITION
Filed: June 11, 2002 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed September 19, 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 14, 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.

There is an overpayment of $65.00. This payment will be refunded to petitioner's deposit account.

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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FOLEY & LARDNER, LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

In re Patent No. 7,085,675	:	
Issue Date: August 1, 2006	:	
Application No. 10/360,843	:	NOTICE
Filed: February 6, 2003	:	
Patentee(s): Stephan W. Wegerich	:	

This is a Notice regarding your communication filed on September 8, 2010, which is being treated as a request under 37 CFR 1.28(c) for acceptance of a fee deficiency submission.

Petitioner states "The US agent of record Foley& Lardner LLP filed the necessary documents for change of entity status into LARGE and consequently asked to have our maintenance fee payment of January 28th, 2010 in the amount of USD 490.-topped-up." However, while Dennemeyer & Co. Luxembourg (Carolin Bohn) is attempting to make the fee deficiency payment of the 3 ½ year maintenance fee, the "NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS" filed on July 22, 2010, states "Fees paid presently and henceforth will be paid based on large entity status." Since the 3 ½ year maintenance fee was submitted on January 28, 2010, it is clear that the loss of small entity status does not apply to this fee. Therefore, the request is hereby **dismissed**.

Petitioner should note that if the 3 ½ year maintenance fee, submitted on January 28, 2010, was paid as a small entity in error, a request under 37 CFR 1.28(c) must be filed and signed by an attorney of record, an attorney or agent registered before the USPTO, the patentee or the assignee[1].

In view of the above, the request to accept the fee deficiency cannot be accepted at this time.

[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

Since the correspondence address given in the present request differs from the correspondence address of record, a courtesy copy of this Notice is being mailed to the address given in the present request. Thereafter, all future communications from the Office will be directed solely to the address of record until otherwise instructed.

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

By mail: Mail Stop PETITION
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Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Carolin Bohn
Dennemeyer & Co.
P.O. Box 1502
L-1015 Luxembourg

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FOLEY & LARDNER, LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

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MAY 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,085,675	:	
Issue Date: August 1, 2006	:	
Application No. 10/360,843	:	NOTICE
Filed: February 6, 2003	:	
Patentee(s): Stephan W. Wegerich	:	

This is a Notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on November 24, 2010 and on February 3, 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 6919807
Issue Date: July 19,2005
Application No. 10360885
Filed: February 7,2003
Attorney Docket No. 12580/31004

:

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

:

This is a decision on the electronic petition, filed September 13,2010 ,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 13,2010 . 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

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JAN 11 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (AT)
P.O BOX 1022
Minneapolis, MN 55440-1022

In re Patent of Judge	:	
Patent No. 7,096,498	:	
Issue Date: August 22, 2006	:	Letter
Application No. 10/361,091	:	
Filing Date: February 7, 2003	:	
Attorney Docket No. 20281-0006001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 7, 2010.

The deficiency payment of $490 is hereby accepted.

The change of status to large entity has been entered and made of record.

Patentee submitted a $130 surcharge payment with the deficiency payment. However, payment of the $130 is unnecessary. Therefore, a refund of the fee will be scheduled and the fee will be refunded 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

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. 7100633
Issue Date: September 5,2006
Application No. 10361193
Filed: February 6,2003
Attorney Docket No.

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

This is a decision on the electronic petition, filed September 9,2010 ,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 9,2010 . 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)
7,100,633	2006-09-05	10/361,193	2003-02-06	

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

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	/Jordan Kuhn/	Date (YYYY-MM-DD)	2010-09-09
Name	Jordan Kuhn	Registration Number	62154

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
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P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED
FEB 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Joel Walls et al.	:	
Application No. 10/361,209	:	DECISION ON PETITION
Filed: February 8, 2003	:	
Attorney Docket No. 200206965-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of July 17, 2009 by the Board of Patent Appeals and Interferences. Therefore, 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 September 18, 2009. *See* MPEP 1214.06. A Notice of Abandonment was mailed on November 20, 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 $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

As authorized the petition fee of $1,620 will be charged to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

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

This application is being referred to Technology Center AU 2443 for appropriate action by the Examiner in the normal course of business on the reply received February 25, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Hewlett-Packard Company
Intellectual Property Administration
3450 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80527

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)
6949276	2005-09-27	10361344	2003-02-10	6117-00101

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

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 B. Meyertons/	Date (YYYY-MM-DD)	2011-04-13
Name	Eric B. Meyertons	Registration Number	34876

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
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In re Patent No. 6949276
Issue Date: September 27,2005
Application No. 10361344
Filed: February 10,2003
Attorney Docket No. U 014368-8

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

This is a decision on the electronic petition, filed April 13,2011 ,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 13,2011 .
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

HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego CA 92122

MAILED

AUG 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,117,079	:	
Issue Date: October 3, 2006	:	
Application No. 10/361,485	:	ON PETITION
Filed: February 5, 2003	:	
Attorney Docket No. **38578-0010**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 15, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight October 3, 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 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 instant petition 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 all the inventors and the record herein fails to disclose that petitioner herein (Philip Morgan) was ever given a power of attorney to act on behalf of inventor Michael Streichsbier, Marc D. Rumminger, Bradley L. Edgar, Albert O. Ricord, 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.

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 the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Philip Morgan
16500 Ventura Blvd.
Encino, CA 91436

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROGER A. GILCREST
250 WEST STREET
COLUMBUS OH 43215-2538

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,117,079 :
Issue Date: October 3, 2006 :
Application No. 10/361,485 : ON PETITION
Filed: February 5, 2003 :
Attorney Docket No. **38578-0010** :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed October 5, 2011[1], to accept the delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight October 3, 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 petition is hereby **GRANTED**.

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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] With a Certificate of Mailing of October 3, 2011.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100920

DATE : September 20, 2010

TO SPE OF : ART UNIT 3627

SUBJECT : Request for Certificate of Correction on Patent No.: 7340422

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:

Amendments are OK to be entered.

SPE: /F. Ryan Zeender/ **Art Unit** 3627

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 13, 2010

TO SPE OF : ART UNIT 1781

SUBJECT : Request for Certificate of Correction for Appl. No.: 10361808 Patent No.: 7060309

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: _____

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER

SPE

1781
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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Paper No.

MAILED

AUG 18 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,594,250	:	DECISION ON REQUEST
Debey	:	FOR
Issue Date: September 22, 2009	:	RECONSIDERATION OF
Application No. 10/361,840	:	PATENT TERM ADJUSTMENT
Filed: February 10, 2003	:	and
Atty Docket No. 088245-4382	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 3, 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 eight hundred and ninety (890) 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 hundred and fifty-seven (257) days is **GRANTED to the extent indicated herein.**

Petitioner has indicated that this patent is subject to a terminal disclaimer.[1]

It is noted that the twenty-four (24) day reduction associated with the filing of a "miscellaneous incoming letter" on May 15, 2009 was erroneously assigned.

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

[1] Petition, page 2.

begins on February 11, 2006 and ends on January 25, 2009, the day before the first RCE was filed, which amounts to 1080 (not 1081) days. See U.S.C. 154(b)(1)(B)(i).

The time taken up by the notice of appeal is excluded from the period of B-delay. A notice of appeal was filed on February 22, 2007, and a Request for Continued Examination was filed on January 26, 2009. The 632 days of the over three year period consumed by appellate review, beginning on February 22, 2007 and ending on November 14, 2008 is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 257 (180 days of examination delay plus 1080 "B-delay" minus the aforementioned excluded 632 days minus 371 days of Applicant delay) days, not 890 days.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Deposit Account No. 19-0741 in due course. No additional fees are required.

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 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 **two hundred and fifty-seven (257) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,594,250 B2

DATED : **September 22, 2009** **DRAFT**

INVENTOR(S) : Debey 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 244 days

Delete the phrase "by 244 days" and insert – by 257 days--

Post-Wyeth calculations

Timely filed
Charge petition fee

MAILED
AUG 18 2010
OFFICE OF PETITIONS

Not a 371, no 183

111 application filed 2/10/03
RCE filed 1/26/9
Patent issued with 244 (1088-395) days. Without the time added, it would have been zero (180 - 371, as the 24 days for the letter was erroneous).

1. B_{max} = 1080
2. Are there any B-deductions? The time taken up by the notice of appeal is excluded from the period of B-delay. 2/21/07 (day before the NOA) - 11/14/08 = 632 days are excluded.

3. Notice of Appeal: use day before the NOA (2/22/07 becomes 2/21/07) 2/21/07 - 11/14/08 results in 632 days of overlap. Spring forward 3 year 2/10/06 + the overlap of 632 = 11/04/07. Start at 11/04/07 when looking at other A delays.

4. Compare A delay
   - 14-month A delay: 1st Office action occurred prior to B_{start}.
   - Other A delay: none prior to RCE.
5. B_{net} = 1080 - 632 excluded = 448
6. 180 + 448 - 371 = 257.

Patentee failed to exclude any time for the appellate process. This is where the discrepancy arises (along with the RCE discrepancy).

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,594,250 B2

DATED : **September 22, 2009** **DRAFT**

INVENTOR(S) : Debey 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 244 days

Delete the phrase "by 244 days" and insert – by 257 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Novartis Corporation
Corporate Intellectual Property
One Health Plaza 101/2
East Hanover NJ 07936-1080

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,446,175	:
Gram et al.	: DECISION UPON REMAND AND
Issue Date: November 4, 2008	: RECONSIDERATION OF
Application No. 10/362,082	: PATENT TERM ADJUSTMENT
Filed: October 15, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 4-3156A	: TO ISSUE CERTIFICATE OF
Title: Antibodies to Human IL-1Beta	: 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 one thousand one hundred and thirty-one (1131) 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 one hundred and thirty-one (1131) 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

Day : Monday
Date: 12/20/2010

PALM INTRANET

Time: 12:29:12

PTA Calculations for Application: 10/362082			
Application Filing Date:	10/15/2003	PTO Delay (PTO):	751
Issue Date of Patent:	11/04/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	262
Post-Issue Petitions:	0	Total PTA (days):	1131
PTO Delay Adjustment:	642		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
88	12/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	642		
76.5	10/15/2008	PTA 36 MONTHS	219		
76	11/04/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
75	10/09/2008	EXPORT TO FINAL DATA CAPTURE			
74	10/08/2008	FINISHED INITIAL DATA CAPTURE			
73	09/29/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
72	09/26/2008	ISSUE FEE PAYMENT VERIFIED			
71	09/26/2008	ISSUE FEE PAYMENT RECEIVED			
69	09/12/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
68	09/01/2008	EXPORT TO INITIAL DATA CAPTURE			
65	08/29/2008	MAIL NOTICE OF ALLOWANCE			
64	06/16/2008	UNTIMELY (LATE) AMENDMENT FILED			
63	08/01/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	08/01/2008	CASE DOCKETED TO EXAMINER IN GAU			
61	08/01/2008	ISSUE REVISION COMPLETED			
60	08/01/2008	DOCUMENT VERIFICATION			
59	08/01/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
58	08/01/2008	EXAMINER'S AMENDMENT COMMUNICATION			
57	08/01/2008	NOTICE OF ALLOWABILITY			
56	07/17/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
54	07/10/2008	MAIL FINAL REJECTION (PTOL - 326)			
53	07/07/2008	FINAL REJECTION			

52	04/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	05/28/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
50	05/20/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
49	05/21/2008	DATE FORWARDED TO EXAMINER			
48	05/20/2008	SUPPLEMENTAL RESPONSE		20	45
47	04/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	05/21/2008	DATE FORWARDED TO EXAMINER			
45	04/30/2008	RESPONSE AFTER NON-FINAL ACTION		90	41
44	04/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	04/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	10/31/2007	MAIL NON-FINAL REJECTION			
40	10/29/2007	NON-FINAL REJECTION			
39	08/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	08/22/2007	DATE FORWARDED TO EXAMINER			
34	08/08/2007	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES		61	27
33	08/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	03/08/2007	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
26	03/05/2007	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
25	01/09/2007	DATE FORWARDED TO EXAMINER			
24	11/30/2006	RESPONSE TO ELECTION / RESTRICTION FILED		91	22
23	11/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	05/31/2006	MAIL RESTRICTION REQUIREMENT	532		-1
21	05/26/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
20	01/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
19.7	08/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	05/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	05/26/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	05/26/2004	REFERENCE CAPTURE ON IDS			

14	05/26/2004	CLAIMS PTO			
12	12/18/2003	CLEARED BY OIPE CSR			
11	10/15/2003	371 COMPLETION DATE			
10	11/18/2003	APPLICATION DISPATCHED FROM OIPE			
9	11/18/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
8	10/15/2003	ADDITIONAL APPLICATION FILING FEES			
5	10/15/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,446,175

DATED : **September 09, 2008** **DRAFT**

INVENTOR(S) : Gram 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 489 days

Delete the phrase "by 489 days" and insert – by 1131 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

Barnes & Thornburg
11 South Meridian Street
Indianapolis IN 46204

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Webster et al.	:	
Application No. 10/362,148	:	ON APPLICATION FOR
Filed: February 19, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 3220-69766	:	

This is in response to the Request for Reconsideration of the Patent Term Adjustment under 37 C.F.R. § 1.705 filed August 10, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one hundred ninety-seven (197) days, not thirty-five (35) 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 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).

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

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Rocco S. Barrese
Dilworth & Barrese
333 Earle Ovington Blvd
Uniondale, NY 11553

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AUG 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,315,407 :
Issue Date: January 1, 2008 :
Application No. 10/362,254 : NOTICE
Filed: February 21, 2003 :
Patentee(s): Irina Menz, et. al. :

This is a Notice regarding your "PAYMENT OF FEE DEFICIENCY" filed on July 29, 2011, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

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.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Adrian T. Calderone appearing on the request 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. A courtesy copy of this Notice is being mailed to the address given in the present request. Thereafter, all future communications from the Office will be directed to the address of record unless otherwise instructed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Adriane T. Calderone
Dilworth & Barrese, LLP
1000 Woodbury Road - Suite 405
Woodbury, NY 11797

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12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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JAN 3 0 2012

OFFICE OF PETITIONS

In re Application of
Albert Palombo et al.
Application No. 10/362,376
Filed: June 23, 2003
Attorney Docket No: **15675P446**

ON PETITION

This is a decision on the petition filed January 9, 2012 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 15, 2010 for failure to timely reply to the non-Final Office Action mailed August 12, 2010 within the shortened statutory period of three months set for reply. Accordingly, a Notice of Abandonment was mailed March 29, 2011.

This matter is being referred to Technology Center 3716 for appropriate action on the amendment filed January 9, 2012.

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

---

[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)).

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LEWIS AND ROCA LLP
1663 Hwy 395, Suite 201
Minden NV 89423

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael McGrath	:	
Application No. 10/362,874	:	DECISION ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. USPS-054	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 22, 2011, 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 21, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 21, 2011. Accordingly, the date of abandonment of this application is September 22, 2011.

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 $,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper 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.

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

This application is being referred to the Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FRIEDRICH KUEFFNER
LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Artmann	:	
Application No. 10/362,949	:	DECISION
Filed/Deposited: 26 February, 2003	:	
Attorney Docket No. FI-45PCT	:	

This is a decision on the petition filed on 4 April, 2005, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

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

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 (copy enclosed) mailed on 15 September, 2004, with reply due absent extension of time on or before 15 December, 2004.

The application went abandoned by operation of law after midnight 15 December, 2004.

The Office mailed the Notice of Abandonment on 24 March, 2005.

On 4 April, 2005, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, many pages of mail logs (which generally are not required) but failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring: a copy of the firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and; recitations as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I). (It does not appear that Petitioner has filed a Status Inquiry in the matter since the petition was filed and sent in error to the Technology Center, rather than to the Office of Petitions.)

Petitioner is directed to in the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all

> replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1] (Emphasis supplied.)

***

On any renewed petition, Petitioner must:

- make the statements as required and expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I)—as highlighted above for Petitioner's reference; and

- supplement his documentary showing by presenting a copy of the due date calendar and a copy of the docket sheet or file jacket cover for the instant application.

Should Petitioner find it not possible to satisfy these requirements, Petitioner may alternatively chose to present a petition pursuant to 37 C.F.R. §1.137(b) with fee, reply (a copy of the 3 December, 2008, Notice of Allowance/Allowability is enclosed for Petitioner's ease of reference), and statement of unintentional delay. (Applicants/Petitioners always are cautioned that the conditions of their failure to reply timely and properly to an Office action, including a decision on petition, may be considered *indicia* of intentional delay.)

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

Petitioner is requested to review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and then seek to satisfy those requirements. Alternatively, Petitioner may file a petition to revive pursuant to the regulations at 37 C.F.R. §1.137(b).

---

[1] *See*: MPEP §711.03(c) (I)(A).

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

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.

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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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.
10/362,949	06/17/2003	Gerhard Artmann	FI-45PCT	5648

7590 09/15/2004

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

EXAMINER
ELLINGTON, ALANDRA

ART UNIT	PAPER NUMBER
2855	

DATE MAILED: 09/15/2004

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

Office Action Summary	Application No.	Applicant(s)
	10/362,949	ARTMANN, GERHARD
	Examiner	Art Unit
	Alandra Ellington	2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☒ Claim(s) *24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 June 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/26/03*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

2. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

3. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it contains less than the

required amount of words. Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

5. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

6. Claim 24 is objected to because of the following informalities:

(a) In line 2, replace "os" with – is –.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-28 are rejected 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.

(a) With respect to Claim 1, it is unclear as to what "*can be bonded to the living material.*" The Applicant does not clearly specify if the *mounting, sensor*, or *membrane* is bonded to the living material.

(b) With respect to Claim 5, it is unclear as to what is the *membrane thickness range*. The Applicant states "*the thickness of the membrane is in the range from 0.1 to 10 μm, preferably of from 0.5 to 5 μm, particularly preferably 1 μm ... the range from* 6×10^{-6} *to* 6×10^{-4}*, preferably of from* 3×10^{-5} *to* 3×10^{-4}*, and particularly preferably* 6×10^{-5}*"*.

(c) With respect to Claim 6, it is unclear as to what is the *modulus of elasticity of the membrane range*. The Applicant states "*the range from about 1000 to 10,000 MPa, preferably of from about 2500 to 6500 MPa, and particularly preferably of about 3900 MPa."*

(d) With respect to Claim 9, it is unclear as to what is meant by the Applicant in the statement "*where* ***appropriate*** *before, during and/or after stimulation of the material with external stimuli."*

(e) With respect to Claim 17, it is unclear as to what is the *liquid column fill height range*. The Applicant states *"the range from about 0.1 to 50 mm, preferably of from 0.5 to 10 mm, and particularly preferably of 2 mm, is applied to the membrane, at a modulus of elasticity of about 3900 MPa."*

(f) With respect to Claims 18 and 20, there is insufficient antecedent basis for *"the liquid column."*

(g) With respect to Claim 22, there is insufficient antecedent basis for *"the hydrostatic pressure."*

(h) With respect to Claim 25, it is unclear as to what is the *range of the intrinsic forces and/or force changes emanating from the living material.* The

Applicant states *"a range from 0 to 5000 mPa·m preferably of from 0 to 500 mPa·m."*

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sturm (5,714,693).

(a) With respect to Claim 1, Sturm discloses a device for measuring forces of living material containing a mounting 4,10,16, an elastically deformable membrane 9,15 and a sensor 7 for measuring the change of forces acting on the membrane 9,15 (col. 3 lines 60-67, col. 4 lines 1-17), comprising a membrane 9,15 which is arranged on a mounting 4,10,16, which is stretched in a planar manner, which is freely accessible from both sides and which can be deformed elastically by applying a physical force (col. 3 lines 60-64), and which can be bonded to the living material 3 after the latter has been applied to this membrane 9,15 (col. 3 lines 28-32,65-67).

(b) With respect to Claim 2, Sturm discloses the device as claimed in claim 1, characterized in that the membrane 15 exhibits a hydrophilic surface and/or a surface which is suitable for adhering and/or culturing living material, and/or is

correspondingly treated and/or supplied with an adhesion-mediating substance (col. 3 lines 9-11,28-32, col. 4 lines 23-40).

(c) With respect to Claim 3, Sturm discloses the device as claimed in either claim 1 or 2, characterized that the membrane 9,15 has any arbitrary shape, being preferably circular, hemispherical, spherical, rectangular and/or square (col. 3 lines 34-39).

(d) With respect to Claim 4, Sturm discloses the device as claimed in one of claims to 3, characterized in that the membrane 9,15 is pore-free and/or tear-resistant and/or biologically inert (col. 3 lines 9-11,16-21, col. 4 lines 23-28).

11. Claims 9,15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (5,181,416).

(a) With respect to Claim 9, Evans discloses a method for measuring forces of living material, wherein laterally acting intrinsic forces of the living material 16 are transmitted directly to an elastically deformable membrane 20 and the resulting change in the deflection of the membrane 20 is registered quantitatively (col. 4 lines 36-48, col. 5 lines 3-8,15-27,58-68, col. 6 lines 1-15).

(b) With respect to Claim 15, Evans discloses the method as claimed in claim 9, wherein the membrane 20 is adhered to the mounting 22 while it is being and/or after it has been stretched in a planar manner (col. 5 lines 3-8).

(c) With respect to Claim 19, Evans discloses the method as claimed in claim 9, wherein the living material 16 is subjected to external mechanical, electrical and/or magnetic forces 18,34 (col. 4 lines 33-36,49-59, col. 5 lines 58-63).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,181,416).

(a) With respect to Claim 24, Evans discloses the claimed invention except for the method step stating wherein the time course of the forces transmitted to the membrane are measured, preferably continuously, over a period from 1 second to several hours. However, Evans teaches a repeatable process wherein a needle 16 penetrates a membrane 20 (col. 5 lines 58-68, col. 6 lines 1-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Evans to include the step wherein a time course of forces transmitted to the membrane are measured over a certain time period for the purpose of accurately measuring the forces during all the deflection states of the membrane in order to test the durability of the object (col. 4 lines 23-27,36-48, col. 5 lines 58-68, col. 6 lines 1-5).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(a) Sparks (5,915,281) discloses a silicon force and displacement sensor.

(b) Doemes et al (5,969,270) discloses a force sensor.

(c) De Jager (5,684,255) discloses an apparatus for measuring yarn tension.

(d) Okada (6,716,253) discloses a force detector.

(e) Insalaco et al (6,279,395) discloses an annual shear element with radial preload.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alandra Ellington whose telephone number is (571) 272-2178. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alandra Ellington
Art Unit 2855

EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

ane

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Paper No.

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Patent No. 7664885	: DECISION ON REQUEST
Giovanni Carapelli	: FOR
Issue Date: 02/16/2010	: RECONSIDERATION OF
Application No. 10/363059	: PATENT TERM ADJUSTMENT
Filed: 10/09/2003	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
2222.5940001	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 16, 2010, which is being treated as a request for reconsideration 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 five hundred sixty-four (564) days. As clarified below, the petition will be 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 five hundred sixty-three (563) 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 sixty-three (563) days is **GRANTED to the extent indicated herein.**

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of March 3, 2003, no February 28, 2003 as asserted by patentee. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, March 3, 2003. Further, 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 March 3, 2003 and ends on August 19, 2007, the day before the RCE was filed, and is 534 days. See 35 U.S.C. 154(b)(1)(B)(i). Considering the 95 overlapping days pursuant to 37 CFR 1.703(a)(1) beginning on March 3, 2006, the day after the date three years after the date the application commenced the national stage under 35 U.S.C. 371(b) and ending on June 6, 2006, the date the first Office action was mailed under 37 CFR 1.702(b), the "B" delay is 439 (534 – 95) 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 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 **five hundred sixty-three (563)** 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 : 7,664,885 B2

DATED : **Feb. 16, 2010** **DRAFT**

INVENTOR(S) : Carapelli 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 124 days.

Delete the phrase "by 124 days" and insert – by 563 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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BORDEN LADNER GERVAIS LLP
ANNE KINSMAN
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,215,931 :
Issued: May 8, 2007 :
Application No. 10/363,158 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No: PAT 3271W-2 US :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed March 21, 2011 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.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Lambertus Van De Beld et al.	:	
Application No. 10/363,337	:	NOTICE
Patent No. 7,262,331	:	
Filed: June 02, 2003	:	
Attorney Docket No. **VER-172XX**		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 May 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 **NOT ACCEPTED**.

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.

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) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **DENNEMEYER & CO. LTD**
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
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BOSTON MA 02109

MAILED
AUG 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Lambertus Van De Beld et al.	:	
Patent No. 7,262,331	:	NOTICE
Application No. 10/363,337	:	
Filed: June 02, 2003	:	
Attorney Docket No. **VER-172XX**		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 August 05, 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) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/363,376	07/07/2003	Mary C. Farach-Carson	UOD-157US	2593

7590 08/24/2010

RATNERPRESTIA
P.O. BOX 1596
WILMINGTON, DE 19899

EXAMINER
ROBINSON, HOPE A

ART UNIT	PAPER NUMBER
1652	

MAIL DATE	DELIVERY MODE
08/24/2010	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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

August 23, 2010

RATNERPRESTIA
P.O. BOX 1596
WILMINGTON DE 19899

In re Application of	:	
Mary C. Farach-Carson, et al	:	**DECISION ON PETITION**
Application No. 10363376	:	
Filed: 07/07/2003	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **UOD-157US**	:	***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) December 4, 2008.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Edwards Wildman Palmer LLP
P.O. Box 55874
Boston MA 02205

MAILED
MAR 20 2012
OFFICE OF PETITIONS

In re Patent No. 7,229,962 :
Issue Date: June 12, 2007 :
Application No. 10/363,427 : ON PETITION
Filed: February 28, 2003 :
Attorney Docket No. 89944(301691) :

This is a decision on the petition under 37 CFR 1.378(c), filed February 16, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is GRANTED.

This patent expired on June 12, 2011 for failure to pay the 3.5 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 required maintenance fee and surcharge have been charged to the authorized deposit account.

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Kevin L. Bastian
Townsend & Townsend & Crew
8th Floor
Two Embarcadero Center
San Francisco, CA 94111-3834

MAILED
FEB 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,560,484	:
Yamada et al	: DECISION UPON REMAND AND
Issue Date: 7/14/2009	: RECONSIDERATION OF
Application No. 10/363,484	: PATENT TERM ADJUSTMENT
Filed: August 12, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 082392-000000US	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Vaccine Preparation Containing Fatty Acid as a Constituent	:

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 six (1006) 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 six (1006) 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 : 7,560,484

DATE : July 14, 2009 **DRAFT**

INVENTOR(S) : Yamada 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 779 days

Delete the phrase "by 779 days" and insert – by 1006 days--

Day : Thursday
Date: 2/10/2011

PALM INTRANET

Time: 10:50:41

PTA Calculations for Application: 10/363484			
Application Filing Date:	08/12/2003	PTO Delay (PTO):	860
Issue Date of Patent:	07/14/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	81
Post-Issue Petitions:	0	Total PTA (days):	1006
PTO Delay Adjustment:	227		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
89	02/10/2011	ADJUSTMENT OF PTA CALCULATION BY PTO	227		
84.5	06/24/2009	PTA 36 MONTHS	250		
84	07/14/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
83	06/11/2009	EXPORT TO FINAL DATA CAPTURE			
82	06/10/2009	DISPATCH TO FDC			
81	06/10/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
80	06/09/2009	ISSUE FEE PAYMENT VERIFIED			
79	06/09/2009	ISSUE FEE PAYMENT RECEIVED			
78	05/20/2009	FINISHED INITIAL DATA CAPTURE			
77	03/20/2009	EXPORT TO INITIAL DATA CAPTURE			
76	03/17/2009	MAIL NOTICE OF ALLOWANCE			
75	03/16/2009	ISSUE REVISION COMPLETED			
74	03/16/2009	DOCUMENT VERIFICATION			
73	03/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	03/16/2009	NOTICE OF ALLOWABILITY			
68	01/12/2009	DATE FORWARDED TO EXAMINER			
67	12/19/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		20	58
66	01/12/2009	DISPOSAL FOR A RCE / CPA / R129			
65	12/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	12/19/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
63	12/03/2008	MAIL ADVISORY ACTION (PTOL - 303)			
62	12/02/2008	ADVISORY ACTION (PTOL-303)			
60	11/13/2008	DATE FORWARDED TO EXAMINER			

59	10/29/2008	AMENDMENT AFTER FINAL REJECTION			
58	08/29/2008	MAIL FINAL REJECTION (PTOL - 326)			
57	08/29/2008	FINAL REJECTION			
56	06/27/2008	DATE FORWARDED TO EXAMINER			
55	06/09/2008	RESPONSE AFTER NON-FINAL ACTION		61	53
54	06/09/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	01/09/2008	MAIL NON-FINAL REJECTION			
52	01/07/2008	NON-FINAL REJECTION			
51	01/03/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	09/30/2007	DATE FORWARDED TO EXAMINER			
46	09/27/2007	AMENDMENT AFTER FINAL REJECTION			
45	07/05/2007	MAIL FINAL REJECTION (PTOL - 326)			
44	06/25/2007	FINAL REJECTION			
43	04/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	04/15/2007	DATE FORWARDED TO EXAMINER			
39	04/13/2007	RESPONSE AFTER NON-FINAL ACTION			
38.7	04/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	04/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	02/26/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
36	01/04/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	01/25/2007	MAIL NON-FINAL REJECTION			
34	01/22/2007	NON-FINAL REJECTION			
33	01/04/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	01/04/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	01/05/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
30	01/04/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
29	01/05/2007	MAIL NOTICE OF WITHDRAWN ACTION			
28	01/04/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
27	11/03/2006	MAIL NON-FINAL REJECTION			
26	10/30/2006	NON-FINAL REJECTION			

25	09/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	08/18/2006	DATE FORWARDED TO EXAMINER			
23	08/11/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
22	08/11/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	06/14/2006	MAIL RESTRICTION REQUIREMENT	610		-1
20	06/12/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
19	06/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	01/10/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17.7	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	08/12/2003	MISCELLANEOUS INCOMING LETTER			
12	08/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
11.7	07/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	07/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/28/2003	CLEARED BY OIPE CSR			
9	08/29/2003	APPLICATION DISPATCHED FROM OIPE			
8	08/29/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	08/12/2003	ADDITIONAL APPLICATION FILING FEES			
3	08/12/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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GOODWIN PROCTER LLP.
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MELNO PARK, CA 94025-1105

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Patent No. 7,699,791	:	DECISION ON REQUEST
Alden, et al.	:	FOR
Issue Date: April 20, 2010	:	RECONSIDERATION OF
Application No. 10/363,509	:	PATENT TERM ADJUSTMENT
Filed: August 25, 2003	:	and
Atty Docket No. PEL-2670.US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 20, 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 thirty (830) 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 **eight hundred twenty-nine (829)** days.

The "B" delay period is 461 days, not 462 days. Patentees calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). Further, in this instance, the national stage commencement date is Friday, December 12, 2003. The priority date of this application is June 12, 2001. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-month

period. Accordingly, the commencement date is Friday, December 12, 2003. Thus, "B" delay is 461 days, counting the number of days beginning on December 13, 2006 and ending on March 17, 2008, the day before the Request for Continue Examination was filed. See 1.703(b). There is no overlap between the A and B delay periods. Therefore, the patent term adjustment is 829 (690 A delay + 461 B delay - 0 overlap - 322 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.

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 twenty-nine (829) 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 : 7,699,791 B2

DATED : **April 20, 2010** **DRAFT**

INVENTOR(S) : Alden 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 938 days

Delete the phrase "by 938 days" and insert – by 829 days--

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

MAILED

OCT 18 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,883,643 :
Issue Date: April 26, 2005 :
Application No. 10/363,812 :
Filed: June 26, 2003 :
Attorney Docket No. ROBILLARD-1 (PCT) :

This is a decision on the petition under 37 CFR 1.378(c), filed August 9, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued April 26, 2005. The first maintenance fee could have been paid from April 26, 2008 through October 26, 2008, or with a $65 surcharge during the period from October 27, 2008 through April 26; 2009. Accordingly, the patent expired at midnight April 26, 2009, for failure to timely submit, the (first) 3 ½ year maintenance fee.

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 (2) and (3) above.

A review of the record shows that while petitioner did give authorization to charge the petitioner's credit card, no credit card information was provided to cover the cost of the maintenance fee and surcharge. Therefore, the before a petition filed under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the maintenance fee can be reviewed, the fee of $700 for the surcharge and the maintenance fee payment of $490 must be paid.

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.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States

Since it is not apparent whether the signature on the instant petition is from someone authorized to sign a petition under 37 CFR 1.378, the statement of unintentional delay cannot be accepted at this time. 37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 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.

If the instant petition is filed on behalf of the assignee, the petition does not comply with the requirements of 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 blank Statement under 37 CFR 3.73(b) is enclosed with this decision on petition.

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 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
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 regarding this decision should be directed to undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Blank Statement under 37 CFR 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROSLYN, NY 11576

MAILED

SEP 08 2011

OFFICE OF PETITIONS

In re Patent No. 6,883,643 :
Issue Date: April 26, 2005 :
Application No. 10/363,812 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. ROBILLARD-1 (PCT) :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed December 17, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 26, 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).

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

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Joseph S Tripoli
Patent Operations
Thomson multimedia Licensing
CN 5312
Princeton NJ 08543-0028

MAILED
MAR 21 2011
OFFICE OF PETITIONS

In re Application of
Brune, et al.
Application No. 10/363,907
Filed: March 6, 2003
Attorney Docket No. PD000051

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2011, to revive the above-identified application.

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, or such period of time as may be determined by the Board of Patent Appeals and Interferences.

This application became abandoned September 23, 2010 for failure to timely submit a proper reply to the final Office action mailed June 22, 2010. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed January 7, 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 (RCE) 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).

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; (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 2451 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
OCT 2 0 2010
OFFICE OF PETITIONS

In re Patent No. 7,177,458
Issue Date: February 13, 2007
Application No. 10/363,982
Filed: November 12, 2003
Attorney Docket No. Q74346

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 16, 2010.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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Paper No. 10

AFS / ANGIODYNAMICS
666 THIRD AVENUE
FLOOR 10
NEW YORK NY 10017

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. 6,697,670

Issue Date: February 24, 2004

Application No. 10/364,187

Filed: February 11, 2003

Attorney Docket No.

ON PETITION

This is regarding the request for issuance of certificate of correction for the above-cited patent filed September 23, 2008.

The request is **dismissed**.

A review of the file history reveals that a decision was mailed November 5, 2008, that was dispositive petitioner's request for a certificate of correction to correct a priority claim under 35 U.S.C. 119(e). The request was dismissed. Accordingly, the request to issue a certificate of correction containing such correction is also dismissed.

Relative to the correction of the inventor's name—from "Chomenky" to "Chornenky"—petitioner must file an appropriate petition with payment of the fee making such request. It is noted that on the declaration under 37 CFR 1.63 filed February 11, 2003, the inventor was listed as "Chomenky". Section 1481 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> Mistakes in a patent which are not correctable by Certificate of Correction may be correctable via filing a reissue application (see MPEP § 1401 - § 1460). See *Novo Industries, L.P. v. Micro Molds Corporation*, 350 F.3d 1348, 69 USPQ2d 1128 (Fed. Cir. 2003) (The Federal Circuit stated that when Congress in 1952 defined USPTO authority to make corrections with prospective effect, it did not deny correction authority to the district courts. A court, however, can correct only if "(1) the correction is not subject to reasonable debate based on consideration of the claim language and the specification and (2) the prosecution history does not suggest a different interpretation...").
>
> *In re Arnott*, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991) specifies the criteria of 35 U.S.C. 255 (for a Certificate of Correction) as follows:
>
> Two separate statutory requirements must be met before a Certificate of Correction for an applicant's mistake may issue. The first statutory requirement concerns the nature, i.e., type, of the mistake for which a correction is sought. The mistake must be:
>
> (1) of a clerical nature,

(2) of a typographical nature, or

(3) a mistake of minor character.

The second statutory requirement concerns the nature of the proposed correction. The correction must not involve changes which would:

(1) constitute new matter or

(2) require reexamination.

If the above criteria are not satisfied, then a Certificate of Correction for an applicant's mistake will not issue, and reissue must be employed as the vehicle to "correct" the patent. Usually, any mistake affecting claim scope must be corrected by reissue.

A mistake is not considered to be of the "minor" character required for the issuance of a Certificate of Correction if the requested change would materially affect the scope or meaning of the patent. See also MPEP § 1412.04 as to correction of inventorship via certificate of correction or reissue.

Further communications regarding this request may directed as follows:.

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

By FAX: (571) 272-8300
Attn: Office of Petitions

Questions regarding 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/364,476	02/12/2003	Hideyuki Hirano	1405.1069	5145

21171 7590 07/22/2011
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
BROWN, CHRISTOPHER J

ART UNIT	PAPER NUMBER
2439	

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

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Application No.: 10364476	:	
Filed: 02/12/2003	:	**DECISION ON PETITION**
Patent Number: 7,925,882	:	
Issue Date: 04/12/11	:	
Attorney Docket No. **1405.1069**	:	

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 13, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Myriad Genetics Inc.
Intellectual Property Dept.
320 Wakara Way
Salt Lake City Utah 84108

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,470,510	:
Wei	: DECISION UPON REMAND AND
Issue Date: December 30, 2008	: RECONSIDERATION OF
Application No. 10/364,515	: PATENT TERM ADJUSTMENT
Filed: February 12, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 3024-01-3D	: TO ISSUE CERTIFICATE OF
Title: Methods for Diagnosing	: CORRECTION
Cancer and Determining a	:
Susceptibility for Developing	
Cancer	

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).

A telephone voice message was left for Joel Benson advising counsel for owner, that the determination of patent term adjustment was one day greater than the amount requested.

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 nine hundred and eleven(911) 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 nine hundred and eleven (911) 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 : 7,470,510

DATED : December 30, 2008 **DRAFT**

INVENTOR(S) : Wei

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 355 days

Delete the phrase "by 355 days" and insert – by 911 days--

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10364515 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10364515

Application Filing Date	02/12/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	12/30/2008	Non-Overlapping USPTO Delays:	561
A Delays	557	PTO Manual Adjustment	556
B Delays	4	Applicant Delay (APPL)	206
C Delays	0	Total PTA (days)	911

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
79	08/24/2011		P028	Adjustment of PTA Calculation by PTO	556		0
74	12/30/2008		PTAC	Patent Issue Date Used in PTA Calculation			0
74.5	12/10/2008	02/12/2006	PTA36M	PTA 36 Months	4		0
73	12/03/2008		EFDC	Export to Final Data Capture			0
71	12/02/2008		D1935	Dispatch to FDC			0
72	12/01/2008		FIDC	Finished Initial Data Capture			0
70	11/26/2008		PILS	Application Is Considered Ready for Issue			0
69	11/24/2008		N084	Issue Fee Payment Verified			0
68	11/24/2008		IFEE	Issue Fee Payment Received			0
67	10/28/2008		CRFT	Sequence Forwarded to Pubs on Tape			0
66	10/17/2008		EIDC	Export to Initial Data Capture			0
65	10/14/2008		MN/=.	Mail Notice of Allowance			0
64	10/14/2008		IREV	Issue Revision Completed			0
63	10/14/2008		DVER	Document Verification			0
62	10/14/2008		N/=.	Notice of Allowance Data Verification Completed			0
61	10/14/2008		CNTA	Allowability Notice			0
57	10/01/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
56	09/23/2008		FWDX	Date Forwarded to Examiner			0
55	09/19/2008		AP/A	Amendment/Argument after Notice of Appeal			0
54	09/19/2008		N/AP	Notice of Appeal Filed			0
53	08/19/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
52	06/24/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
51	06/21/2008		CTFR	Final Rejection			0
50	04/10/2008		FWDX	Date Forwarded to Examiner			0
48	04/10/2008		FWDX	Date Forwarded to Examiner			0
49	03/18/2008	02/26/2008	SA..	Supplemental Response		21	47
47	02/26/2008		A...	Response after Non-Final Action			0
46	11/27/2007		MCTNF	Mail Non-Final Rejection			0
45	11/23/2007		CTNF	Non-Final Rejection			0
43	08/28/2007		FWDX	Date Forwarded to Examiner			0
41	08/28/2007		FWDX	Date Forwarded to Examiner			0
39	08/28/2007		ABN9	Disposal for a RCE / CPA / R129			0
42	08/27/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
40	08/27/2007	07/26/2007	RCEX	Request for Continued Examination (RCE)		32	34
38	08/27/2007		XT/G	Request for Extension of Time - Granted			0
37	08/27/2007		BRCE	Workflow - Request for RCE - Begin			0
36	08/27/2007		C.AD	Correspondence Address Change			0
35	08/27/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
34	04/26/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
33	04/25/2007		CTFR	Final Rejection			0
32	02/24/2007		FWDX	Date Forwarded to Examiner			0
31	02/20/2007	12/20/2006	A...	Response after Non-Final Action		62	29
30	02/20/2007		XT/G	Request for Extension of Time - Granted			0
29	09/20/2006		MCTNF	Mail Non-Final Rejection			0
28	09/15/2006		CTNF	Non-Final Rejection			0
26	07/20/2006		DOCK	Case Docketed to Examiner in GAU			0
25	07/19/2006		FWDX	Date Forwarded to Examiner			0
24	07/18/2006	04/18/2006	ELC.	Response to Election / Restriction Filed		91	21
23	07/18/2006		XT/G	Request for Extension of Time - Granted			0
22	04/26/2006		DOCK	Case Docketed to Examiner in GAU			0
21	01/18/2006		MCTRS	Mail Restriction Requirement			0
20	01/17/2006		CTRS	Restriction/Election Requirement			0
19	11/28/2005		FWDX	Date Forwarded to Examiner			0
18	11/21/2005		ELC.	Response to Election / Restriction Filed			0
17	10/21/2005	04/12/2004	MCTRS	Mail Restriction Requirement	557		-1

16	10/20/2005	CTRS	Restriction/Election Requirement	0
15	07/16/2004	LET.	Miscellaneous Incoming Letter	0
14	10/14/2003	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
11	06/09/2003	DOCK	Case Docketed to Examiner in GAU	0
10	06/03/2003	OIPE	Application Dispatched from OIPE	0
9	05/27/2003	COMP	Application Is Now Complete	0
8	05/15/2003	ADDFLFEE	Additional Application Filing Fees	0
7	05/15/2003	CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems	0
6	03/24/2003	CPAP	Corrected Paper	0
4	03/18/2003	SCAN	IFW Scan & PACR Auto Security Review	0
3	02/24/2003	CRFE	CRF Is Good Technically / Entered into Database	0
27	02/12/2003	IDSC	Information Disclosure Statement considered	0
13.7	02/12/2003	M844	Information Disclosure Statement (IDS) Filed	0
13	02/12/2003	WIDS	Information Disclosure Statement (IDS) Filed	0
12	02/12/2003	A.PE	Preliminary Amendment	0
2	02/12/2003	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
1	02/12/2003	IEXX	Initial Exam Team nn	0

Export to: Excel

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Patent No. 6,768,510 :
Issued: July 27, 2004 :
Application No.: 10/364,567 : NOTICE
Filed: February 11, 2003 :
Attorney Docket No. **5671.045** :

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
www.uspto.gov

October 11, 2011

Robert A. Goetz
Casimir Jones SC
2275 Deming Way
Suite 310
Middleton, WI 53562

Patent No.	: 7,582,425 B2
Appl. No.	: 10/364,748
Inventor(s)	: John K. Fink, et al.
Issued	: *September 1, 2009
Title	: **ATLASTIN**
Docket No.	: UM-07745

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 1.323.

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

A. **the processing fee set forth in 37 CFR 1.117(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) 273-8300 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.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,188,164	:	
Issue Date: March 6, 2007	:	
Application No. 10/364,791	:	ON PETITION
Filed: February 11, 2003	:	
Patentee(s): James K. Etheridge	:	

This is a decision on the petition under 37 CFR 1.378(c), filed on April 5, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

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

This patented file is being forwarded to Files Repository.

Telephone inquiries 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

MAILED Paper No.
DEC 13 2010
OFFICE OF PETITIONS

RUDY VUKAS
1487 8TH AVE.
FREEDOM PA 15042

In re Application of	:	
Rudy Vukas	:	
Application No. 10/364,845	:	
Patent No. 7,118,078	:	DECISION ON PETITION
Filed: February 13, 2003	:	PURSUANT TO 37 C.F.R.
Issue Date: October 10, 2006	:	§ 1.378(B)
Attorney Docket No. HAW0103	:	
Title: PAINTBRUSH SUPPORT	:	
APPARATUS AND METHOD	:	

This is a decision on the petition filed on October 22, 2010, pursuant to 37 C.F.R. § 1.378(b) to accept the delayed payment of the 3½-year maintenance fee for the above-identified patent.

The petition pursuant to 37 C.F.R. § 1.378(b) is **DISMISSED**.

The patent issued on October 10, 2006. The grace period for paying the 7½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on October 10, 2010, with no payment received. Accordingly, the patent expired on October 10, 2010 at midnight.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

(1) the required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);
(2) the surcharge set forth in 37 C.F.R. § 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.

Surcharge Requirement: with this petition, Petitioner has submitted $825. The 3½-year maintenance fee that is currently associated with a non-large entity status is $490, and the surcharge associated with the filing of a maintenance fee which is submitted after expiration of the patent, where the entire period of delay is characterized as unavoidable, is presently set at $700. The second page of this petition shows that Petitioner is under the mistaken impression that these fees are $555 and $270, respectively. As such, Petitioner has submitted the maintenance fee in full, along with $335 towards the $700 surcharge. It follows that Petitioner has failed to submit the surcharge that is associated with this petition in full.

The payment of both the complete surcharge and the 7½-year maintenance fee is a prerequisite to the filing of a petition to accept an unavoidably delayed payment of a maintenance fee in an expired patent. Therefore, since the complete surcharge has not been submitted to the Office, consideration of the merits of the petition before receipt of the filing fee would be premature.

In view thereof, the petition pursuant to 37 C.F.R. § 1.378(b) must be dismissed.

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $400 petition fee set forth in Rule 1.17(h). 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.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is 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.

On renewed petition pursuant to 37 C.F.R. § 1.378(e), Petitioner will need to submit payment in the amount of $765:

- The $365 remainder of the surcharge that is associated with the filing of a petition pursuant to 37 C.F.R. § 1.378(b) ($700 less the $335 that has already been received is $365), and;
- The fee that is associated with the filing of a renewed petition pursuant to 37 C.F.R. § 1.378(e) is $400.

It is noted that Petitioner has asserted medical incapacitation. Medical incapacitation is an avenue by which an applicant can successfully establish that the entire period of a delay was unavoidable. If this is the case, on renewed petition, Petitioner should assert that he was medically incapacitated for the entire period of delay, and thus prevented from attending to his most important business by replying to the Office action in a timely manner or at least filing a petition to revive on an earlier date. A showing of "unavoidable" delay based upon medical incapacitation must establish that Petitioner's incapacitation was of such a nature and degree as to render Petitioner unable to conduct business (e.g., correspond with the Office) during the entire period between October 10, 2010 and the date on which a renewed petition is filed. Such a showing must be supported by a statement from Petitioner's treating physician, and such statement must provide the nature and degree of Petitioner's incapacitation during the above-mentioned period.

Any relevant medical documentation which would support this assertion should be provided as well. Petitioner is cautioned to avoid submitting confidential information that may contribute to identity theft. Specifically, Petitioner should consider redacting social security, bank account, or credit card numbers from any documents submitted to the USPTO. This type of personal data is never required by the USPTO to support a petition or an application. Petitioner is advised that any information submitted may be disclosed, as a routine use, to the public after either publication of the application, unless a non-publication request is made in the application, or issuance of a patent. Further, a record may be disclosed, subject to the limitations of 37 C.F.R. § 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.

Alternatively, Petitioner may wish to consider filing a petition under the unintentional standard, 37 CFR §1.378(c),[1] along with $1305 ($490 maintenance fee + $1640 surcharge less the already submitted $825). Petitioner should be made aware that the standard associated with a petition filed under this section is far less stringent than the standard associated with a delay asserted to be "unavoidable". As the requirements of 37 CFR 1.378(b) are more exacting than the corresponding requirements of 37 CFR 1.378(c), a petition under the former is significantly less likely to be grantable as filed than is a petition under the latter. A blank form which can be used in filing a petition under 37 CFR 1.378(c) may be found at: http://www.uspto.gov/web/forms/sb0066.pdf.

Any subsequent filing pertaining to the expiration of this patent should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

---

1 A grantable petition pursuant to 37 CFR § 1.378(c) must be accompanied by:
(1) The maintenance fee as set forth in 37 CFR §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 CFR § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

4 (571) 273-8300 - please note this is a central facsimile number.

5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.[6] Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John A. Parrish
Law Offices of John A. Parrish
Suite 300
Two Bala Plaza
Bala Cynwyd PA 19004

MAR 13 2012

In re Application of
SONG, CHUNSHAN et al. :
Application No. 10/365,574 :
Filed: February 11, 2003 :
Attorney Docket No.: PSU 012 :

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment received in the United States Patent and Trademark Office (USPTO) on December 27, 2011.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed August 8, 2011, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on November 21, 2011.

Petitioner states that the Applicants responded by timely paying the Issue Fee on November 8, 2011. In support of this assertion the petitioner has submitted documents, which include the following:

- Copy of Form PTOL-85B (FEE(S) TRANSMITTAL) signed by John A. Parrish
- A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO

The petitioner has demonstrated that the Fee Transmittal was timely with Certificate of Mailing date of November 8, 2011 and is in compliance with 37 CFR 1.10 in that

(1) the Patent and Trademark Office was promptly informed of the previous timely mailing,

(2) included a statement which attests to the previous timely mailing.

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 inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
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

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER CO 80234

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Ian Douglas SWETT	:	
Application No. 10/365,747	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,210,136	:	
Filed: February 14, 2003	:	
Attorney Docket No. ISPHERES 5		

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER CO 80234

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Ian Douglas SWETT	:	
Application No. 10/365,747	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,210,136	:	
Filed: February 14, 2003	:	
Attorney Docket No. ISPHERES 5		

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

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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

Patent

Certificate of Facsimile Transmission
Under 37 C.F.R. §1.8
I hereby certify that this correspondence is being transmitted to the MAINTENANCE FEE BRANCH of the U.S. Patent and Trademark Office via facsimile to Fax Number (571) 273-6500 on October 1, 2010.

(Signature) Kimberly C. Croft

RECEIVED
OCT 08 2010
OFFICE OF PETITIONS

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Inventors:	**Ian Douglas SWETT**	Docket No.:	**iSpheres 5 (406305)**
Serial No.:	**10/365,747**	Group Art Unit:	**2192**
Filing Date:	**February 14, 2003**	Confirmation No.:	**8130**
Patent No.:	**7,210,136**	Examiner:	**Tuan Dam**
Issue Date:	**April 24, 2007**		
Title:	**PARSER GENERATION BASED ON EXAMPLE DOCUMENT**		

10/05/2010 HDAHGURA 00000076 501602 7210136
01 FC:1599 490.00 DA

Attn: Maintenance Fee Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR CHANGE IN ENTITY STATUS AND PAYMENT OF 3.5 YEAR MAINTENANCE FEE AT LARGE ENTITY RATE

SIR:

Patentee submits herewith the difference in payment of a 3.5 year maintenance fee from small entity status to large entity status in the amount of $490.00.

PAGE 2/5 * RCVD AT 10/1/2010 12:47:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/12 * DNIS:2736500 * CSID:303 538 5867 * DURATION (mm-ss):00-46

On July 23, 2010, Patentee filed a request to change its entity status from small to large entity with the U.S. Patent and Trademark Office.

On September 27, 2010, the Petitions Examiner issued a Notice Under 37 CFR. 1.28(c) (copy enclosed) granting the entity status change for Patentee for this patent to LARGE entity status.

During the period of time during which the Examiner was deciding on Patentee's request to change entity status, Patentee's third party maintenance fee payment service (Computer Patent Annuities) paid the 3.5 year maintenance fee at the small entity rate of $490.00.

Since Patentee paid $490.00 via its third party maintenance fee payment service on September 24, 2010, Patentee submits herewith, via deposit account, the required difference of the amount due for a large entity at the 3.5 year date, which is $490.00. The deposit account authorization to debit the required funds is given below.

Patentee respectfully requests that the Maintenance Fee Branch accept the $490.00 difference in payment and requests that the Maintenance Fee Branch issue a new Maintenance Fee Statement indicating that the large entity fee of $980.00 has been appropriately paid and received.

PAGE 3/5 * RCVD AT 10/1/2010 12:47:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/12 * DNIS:2736500 * CSID:303 538 5867 * DURATION (mm-ss):00-46

RECEIVED
OCT 0 8 2010
OFFICE OF PETITIONS

Patent No. 7,210,136
Transmittal Letter for Change In Entity Status
and Payment of 3.5 Year Maintenance Fee at Large Entity Rate Filed 10/01/2010

Deposit Account Authorization

The Patentee hereby authorizes the Commissioner to deduct the amount of $490.00 from Deposit Account No. 501602, and hereby authorizes the Commissioner to deduct any additional fees that may be due for this patent. In addition, Patentee authorizes the Commissioner to credit any overpayment of fees to Deposit Account No. 501602.

Respectfully submitted,

Ian Douglas SWETT

Date: 10/1/2010

By: Douglas M. Grover
Corporate Counsel
Reg. No. 52,974
Phone: (303) 538-4926

Avaya Inc.
Docket Administrator
1300 West 120th Avenue
Room B1-F53
Westminster, CO 80234

Encl.: Copy of Notice Under 37 CFR. 1.28(c) mailed September 27, 2010

PAGE 4/5 * RCVD AT 10/1/2010 12:47:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/12 * DNIS:2736500 * CSID:303 538 5867 * DURATION (mm-ss):00-46

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNIS A. DEBOO
DEBOO & CO.
SUITE 900
400 CAPITOL MALL
SACRAMENTO, CA 95814

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Patent No. 6,816,816 :
Issue Date: November 9, 2004 :
Application No. 10/365,802 : ON PETITION
Filed: February 12, 2003 :
Attorney Docket No. 22108-PA :

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

The petition is not signed by a registered practitioner of record. However, in accordance with 37 CFR 1.34, the signature of Greg Strugalski 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. Strugalski desires to receive correspondence regarding this patent, then 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.

The petition is **DISMISSED**.

A review of the record discloses that the above-identified patent issued on November 9, 2004. Therefore, the grace period in 35 U.S.C. § 41(b) for paying the first maintenance fee expired on November 9, 2008.

35 U.S.C. § 41(c)(1) authorizes the Director to accept a delayed maintenance fee payment within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) if the delay is shown to have been unintentional, and authorizes the Director to accept a delayed maintenance fee payment at any time if the delay is shown to have been unavoidable. Thus, 35 U.S.C. § 41(c)(1) does not authorize the Director to accept a delayed maintenance fee payment later than twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) unless the delay is shown to have been unavoidable. Since the instant petition was

not filed within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b), the Director cannot accept a delayed maintenance fee payment for the above-identified patent under 37 CFR 1.378(c).

Petitioner should note that, since the patent will not be reinstated pursuant to 37 CFR 1.378(c), the $1,640 surcharge and the $980 maintenance fee were **not** charged to counsel's deposit account as requested.

Patentee may wish to pursue reinstatement of the patent under the unavoidable provisions of 37 CFR 1.378(b). 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 and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (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).

Petitioner is reminded that the mere suggestion to file a petition under the unavoidable provisions of 37 CFR 1.378(b) does not necessarily mean the petition will be granted, since all the requirements under 37 CFR 1.37(b) must be satisfied.

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

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

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

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

By Internet: EFS-Web[1]

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

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: GREG STRUGALSKI
GENERAL ELECTRIC COMPANY
1 RIVER ROAD
SCHENECTADY, NY 12345

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United States Patent and Trademark Office
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MAILED
AUG 17 2010
OFFICE OF PETITIONS

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

In re Patent No. 7,403,996	:	DECISION ON REQUEST
Eric M. Halpern	:	FOR
Issue Date: July 22, 2008	:	RECONSIDERATION OF
Application No. 10/366,075	:	PATENT TERM ADJUSTMENT
Filed: February 13, 2003	:	and
Atty Docket No. ORACL-01195US2	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 12, 2008, 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 recalculated. Petitioner states that petitioner believes the patent term adjustment is eight hundred forty-seven (847) days without further explanation.

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, ninety-three (1,093) days is **GRANTED to the extent indicated herein.**[1]

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,

[1] The period of overlap between the "A" delay and the "B" delay is 235 days. It is noted that, in this case where a Request for Continued Examination was filed, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A) is the period from the filing date of the application to the Request for Continued Examination. It is further noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the period of "A" delay that overlaps the period of "B" delay began February 14, 2006, and ended October 6, 2006. Thus, the period of overlap between the "A" delay and the "B" delay is two hundred thirty-five days.

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.

Deposit account 06-1325 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are due.

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, ninety-three (1,093) 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 : 7,403,996 B2

DATED : Jul. 22, 2008

INVENTOR(S) : Halpren

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 (855) days

Delete the phrase "by 855 days" and insert – by 1,093 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6986446
Issue Date: January 17,2006
Application No. 10366240
Filed: February 12,2003
Attorney Docket No. 9513-0027

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

This is a decision on the electronic petition, filed September 24,2010 ,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 24,2010 . 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)
6986446	2006-01-17	10366240	2003-02-12	9513-0027

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

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	/Douglas A. Yerkeson/	Date (YYYY-MM-DD)	2010-09-24
Name	Douglas A. Yerkeson	Registration Number	39882

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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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

MAILED

MAR 12 2012

OFFICE OF PETITIONS

In re Patent No. 7,111,328	:	
Issue Date: September 26, 2006	:	
Application No. 10/366,625	:	ON PETITION
Filed: February 13, 2003	:	
Attorney Docket No. **192001-0011**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 9, 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 September 26, 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 JoAnne Burke at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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BUCHANAN, INGERSOLL & ROONEY, PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 6,907,686
Issue Date: June 21, 2005
Application No. 10/366,737
Filed: February 14, 2003
Attorney Docket No. 22103-300101

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 13, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued June 21, 2005. The first maintenance fee could have been paid from June 21, 2008 through December 21, 2008, or with a $65 surcharge during the period from December 22, 2008 through June 21, 2009. Accordingly, the patent expired at midnight June 21, 2009, for failure to timely submit, the (first) 3 ½ year maintenance fee.

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 (2) above.

Finance records show that petitioner submitted $465 for the 3 ½ year maintenance fee and the unintentional late payment surcharge of $1,640 on December 13, 2010. However, the maintenance fee payment was insufficient. If petitioner intends to submit a renewed petition or a request for reconsideration the fee petitioner is required to submit an additional $25 is required to meet the fee requirements of the petition.

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.

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

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

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

cc: MICHAEL SYMONS
1900 LAFAYETTE STREET
SUITE 115
SANTA CLARA, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent No. 6,907,686	:	
Issue Date: June 21, 2005	:	
Application No. 10/366,737	:	ON PETITION
Filed: February 14, 2003	:	
Attorney Docket No. 22103-300101	:	

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.378(c), filed December 13, 2010 and supplemented on February 12, 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 21, 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).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this corrected decision. In view of this decision the decision mailed February 28, 2011 is hereby **vacated**.

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 undersigned at (571) 272-1642.

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

cc: MICHAEL SYMONS
1900 LAFAYETTE STREET
SUITE 115
SANTA CLARA, CA 95050

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MAR 11 2011
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Sunstein Kann Murphy & Timbers, LLP
125 Summer Street
Boston, MA 02110-1618

In re Patent No. 7,169,111 :
Issue Date: January 30, 2007 :
Application No. 10/367,120 : NOTICE
Filed: February 14, 2003 :
Patentee(s): Yi Zhang, et. al. :

This is a Notice regarding your communication under 37 CFR 1.28(c) filed on January 10, 2011, for acceptance of a fee deficiency submission.

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**[1]. Therefore, status as a small entity has been removed and any future fee submitted must be paid at the large entity rate.

Since the address given in the present request differs from the correspondence address of record, a courtesy copy of this Notice is being mailed to the address given in the request. Thereafter, all future communications regarding this patent will be mailed solely to the fee address of record until otherwise instructed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Daniel O'Brien
Massachusetts Institute of Technology
Five Cambridge Center, Kendall Square
Room NE25-230
Cambridge, MA 02142-1493

[1] The Office acknowledges receipt of a Statement under 37 CFR 3.73(b) received on January 10, 2011.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/14/11

TO SPE OF : ART UNIT: 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/367,498 Patent No. 7,493,132

CofC mailroom date 7/7/11

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

Ernest C. White, LIE

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.

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

Comments: _____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Edward Urban/ 2618

AU 2618

3/2/12

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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3109 Grandiflora Drive
Green Acres FL 33467

In re Patent No. 7,174,664	:	
Issue Date: February 13, 2007	:	
Application No. 10/367,588	:	ON PETITION
Filed: February 14, 2003	:	
Attorney Docket No. 4526.002	:	

This is a decision on the petition under 37 CFR 1.378(c), March 25, 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 14, 2011, 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 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

JACOBSON HOLMAN PLLC
400 SEVENTH STREET, N.W.
WASHINGTON DC 20004

MAILED
JUN 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,022,055 :
Issued: April 4, 2006 :
Application No. 10/367,996 : ON PETITION
Filed: February 19, 2003 :
Attorney Docket No. P68643US0 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 15, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 5, 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.

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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DEC 19 2011
OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

NOTICE

In re Application of
Bernhard H. Weigl, et al.
Patent No. 7,271,007
Application No. 10/368,511
Filed: February 18, 2003
Attorney Docket No. 660117.416D1

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) 272-2991.

/Terri Johnson/
Terri Johnson
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
WWW.USPTO.GOV

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JUL 11 2011
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Paper No.

BRUNDIDGE & STANGER, P.C.
2318 MILL ROAD, SUITE 1020
ALEXANDRIA VA 22314

In re Application of	:	
Uemura	:	
Application No. 10/368,644	:	
In re Patent No. 7,433,934	:	DECISION ON PETITION
Filing Date: February 20, 2003	:	PURSUANT TO 37 C.F.R.
Issue Date: October 7, 2008	:	§ 3.81(B)
Attorney Docket Number:	:	
520.42513X00	:	
Title: NETWORK STORAGE	:	
VIRTUALIZATION METHOD AND SYSTEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed May 16, 2011, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED** to the extent that a Certificate of Correction will be issued, correcting the Assignee information to "Hitachi Global Storage Technologies Japan, LTD., Kanawaga (JP)."

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner has requested that the name of the Assignee should be changed from Hitachi, Ltd. of Tokyo, Japan to Hitachi Global Storage Technologies Japan, LTD., of Kanawaga, Japan.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) 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.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on February 2, 2005, listing Hitachi Global Storage Technologies Japan, LTD. of Kanawaga, Japan as the Assignee.

Payment of the required $100 certificate of correction fee and the $130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, correcting the Assignee information to "Hitachi Global Storage Technologies Japan, LTD., Kanawaga (JP)."

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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JUNEAU PARTNERS
333 N Fairfax St.
Suite 305
ALEXANDRIA VA 22301

MAILED
MAR 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Jennifer F. Bartels	:	
Application No. 10/369,368	:	ON PETITION
Filed: February 18, 2003	:	
Attorney Docket No. AbanByClntBartelsComp	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 6, 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 7, 2007. The Notice of Abandonment was mailed April 8, 2008.

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

The required reply to the Non Final Office action mailed June 6, 2007 was not filed herewith petition.

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

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

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUNEAU PARTNERS
333 N Fairfax St.
Suite 305
ALEXANDRIA VA 22314

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Jennifer F. Bartels	:	
Application No. 10/369,368	:	DECISION ON PETITION
Filed: February 18, 2003	:	
Attorney Docket No. AbanByClntBartelsComp	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 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, June 6, 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 7, 2007. The Notice of Abandonment was mailed April 8, 2008.

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

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

This application is being referred to Technology Center AU 1617 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Josseph A. Walkowski
TraskBritt, PC
P. O. Box 2550
Salt Lake City, UT 84110

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of: :
SCOTT, et al. :
Application No. 10/369,488 : ON PETITION
Filed: February 24, 2003 :

This is a decision on the Communication Requesting Withdrawal of Power of Attorney and Sensitive Personal Information from the Record, filed October 4, 2010, which has been treated as a Petition To Expunge under 37 CFR 1.59(b). The requisite $200.00 petition fee has been charged to Deposit Account No. 20-1469 as authorized in the Petition.

The petition is **GRANTED**.

Petitioner urges that information sensitive in nature was included on a previously submitted Power of Attorney. It is agreed that under the circumstances of this case, petitioner has shown to the satisfaction of the Director that expungement is appropriate.

The file entry of the subject document has been closed. As such, the document is no longer available to the public for inspection, which is the Image File Wrapper (IFW) equivalent to removal of a paper document from a paper file wrapper.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

Brian W. Brown
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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Paper No. 10

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

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Herschel C. Burstyn	:	
Application No. 10/369,512	:	DECISION ON PETITION
Filed: February 21, 2003	:	TO WITHDRAW
Attorney Docket No. 14564-010002	:	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 9, 2010.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Change of Employment" do not appear to meet any of the conditions set forth in 37 CFR 10.40.

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 Irvin Dingle at 571-272-3210.

This file is being forwarded to the Files Repository.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,074,230 :
Issue Date: July 11, 2006 :
Application No. 10/369,915 :
Filed: February 20, 2003 :
Attorney Docket No. 7690-78504-US :

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has 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.

As indicated above, the submission filed December 23, 2010, does not include a proper itemization. In this regard, the basic filing fee should be further itemized to include the basic filing, search and examination fees. Further, please review the current fees from the US Patent and Trademark Office website at www.uspto.gov.

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 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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P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,074,230	:	
Issue Date: July 11, 2006	:	
Application No. 10/369,915	:	NOTICE
Filed: February 20, 2003	:	
Attorney Docket No. 7690-78504-US	:	

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
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
SEP 28 2010
OFFICE OF PETITIONS

In re Application of	:	
James Patrick Reible	:	
Application No. 10/370,127	:	DECISION ON PETITION
Filed: February 18, 2003	:	
	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 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 respond to the Non-Final Office action mailed October 3, 2007, which set a (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 3, 2008, or, on or before April 3, 2008, with a three (3)-month extension of time under 37 CFR 1.136.

Petitioner states that a timely reply was electronically submitted on April 3, 2008, which included the following papers: a request for three (3) month extension of time, and an amendment.

A review of the written record indicates that a reply to the Office action of October 3, 2007 was timely received at the USPTO on April 3, 2008 which included the following papers: an amendment and a request for three (3) month extension of time.

Accordingly, the holding of abandonment for failure to timely file a reply to the Non-Final Office action of October 3, 2007 is hereby withdrawn.

The $810 petition fee will be credited to petitioner's deposit account, as authorized.

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

This application is being referred to the Technology Center AU 3641 for appropriate action

on the amendment received April 3, 2008.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Thierry Stoll	:	DECISION ON PETITION
Application No. 10/370,606	:	TO WITHDRAW
Filed: February 24, 2003	:	FROM RECORD
Attorney Docket No. **060960-5055US**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed November 22, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number has been revoked by the assignee of the patent application on September 2, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: MORGAN, LEWIS, & BOCKIUS LLP - SYNTHES
1701 Market Street
Philadelphia PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
Jacques Gulbenkian :
Application No. 10/370,634 :DECISION ON PETITION
Filed: February 19, 2003 :TO MAKE SPECIAL UNDER
Attorney Docket No. 097012-22-0035US : 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 2003, to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV[1].

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Thomas D. Kohler 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.

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 from the sole inventor that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Additionally, since the address given in the present petition differs from the address of record, a courtesy copy of this decision is being mailed to the address in the petition. Thereafter, all future communications from the Office will be directed solely to the address of record unless otherwise instructed.

[1] This petition was recently referred to the Office of Petitions for consideration; and therefore, the delay in responding is sincerely regretted.

The application file is being referred to Technology Center Art Unit 3636 for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. All other inquiries concerning the processing of the application should be addressed to the Office of Patent Application Processing at (571) 272-4000.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Thomas D. Kohler
Pennie & Edmonds, LLP:
3300 Hillview Avenue
Palo Alto, CA 94304

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.
10/370,640	02/20/2003	Glenn C. Aikens	RSW920020135US1 8152-0081	1268

52023 7590 10/25/2011
Cuenot, Forsythe & Kim, LLC
20283 State Road 7
Ste. 300
Boca Raton, FL 33498

EXAMINER
BURGESS, BARBARA N

ART UNIT	PAPER NUMBER
2457	

NOTIFICATION DATE	DELIVERY MODE
10/25/2011	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):

ibmptomail@iplawpro.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GLENN C. AIKENS, BRADFORD AUSTIN FISHER,
BRIAN DAVID JEFFREY, KEVIN J. KUHNER,
ROBERT LOUIS NIELSEN, JEFFREY MICHAEL SUMMERS
and DOUG KEVIN WILLENBORG

Appeal 2009-006565
Application 10/370,640
Technology Center 2400

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. § 41.3," filed July 13, 2011("Petition"). The Petition requests "that all of the appealed rejections be reviewed, and a Decision be rendered that is compliant with 37 C.F.R. § 41.50(a)(1), in which all of the appealed rejections are either affirmed or reversed (in whole or in part) or the Application is remanded to the Examiner." (Petition 25). The petition fee of $400 pursuant to 37 C.F.R. § 1.17(f) has been charged to the petitioners' deposit account on September 16, 2011.

FINDINGS

1) On February 23, 2007, a Final Rejection was mailed to Appellants. Claims 1, 4-6,8, 11, and 12 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bradley (U.S. 7,082,463 B1, iss. Jul. 25, 2006). Claims 2, 3, 7, 9, and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bradley and Suresh (U.S. 6,208,990 B1, iss. Mar. 27, 2001).

2) On May 22, 2007, Appellants filed a Notice of Appeal and Appeal Brief.

3) On August 16, 2007, Appellants filed a supplemental Appeal Brief.

4) On December 12, 2007, Appellants filed a response to notice of non-compliant Appeal Brief.

5) On February 20, 2008, an Examiner's Answer was mailed to Appellants.

6) On April 21, 2008, Appellants filed a Reply Brief.

7) On May 2, 2008, an acknowledgement of the Reply Brief was mailed to Appellants.

8) On October 22, 2010, a Decision On Appeal was mailed to Appellants. This Decision vacated the Examiner's rejections and entered a new ground of rejection against all claims under 35 U.S.C. § 101 as directed to non-statutory subject matter.

9) On December 22, 2010, Appellants filed a Request for Rehearing.

10) On July 27, 2010, a Decision denying the Request For Rehearing was mailed to Appellants.

11) On August 22, 2010, an Order Vacating Decision and a new Decision On Request For Rehearing were mailed to Appellants. The Order Vacating Decision vacated the July 27, 2011, Decision On Request For Rehearing. The new Decision On Request For Rehearing vacated the vacatur of the

Examiner's prior art rejections of claims 1-12 under §§ 102 and 103, and declined to reach the rejection of claims 1-12 under §§ 102 and 103.

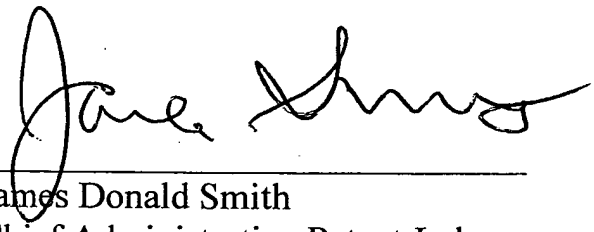
12) On September 16, 2011, Appellants filed the instant Petition.

DISCUSSION

As indicated in the Supplemental Decision Following Decision On Request For Rehearing of August 22, 2011, the Board has now reviewed all of the Examiner's statutory bases for rejecting the claims.

DECISION

For the reasons set forth above, the Petition is DISMISSED as moot.



James Donald Smith
Chief Administrative Patent Judge

nlk

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/18/2011

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/370885 Patent No.: 7932213 B2

CofC mailroom date: 7/15/2011

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: Support for the structure for claim 12 is found in the originally filed claims. The change to the dependency does not alter patentability. All changes are approved.

/Cecilia Tsang/
SPE

1654
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

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of	:	
William I. Higuchi, et al.	:	
Application No. 10/371,148	:	DECISION ON PETITION
Filed: February 21, 2003	:	
Attorney Docket No. 01935-23808	:	

This is a decision on the petition, filed August 23, 2010, which is being treated as a petition under 37 CFR 1.8(a), 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 respond to the Office action of January 19, 2007, which set a (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 19, 2007. A Notice of Abandonment was mailed June 21, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on April 19, 2007, which included the following papers: an Amendment and Response.

The file record includes the originally submitted papers. Although the papers were received at the Office on April 23, 2007, the transmittal letter did include a certificate of mailing dated April 19, 2007.

Failure to timely receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(a), reproduced below:

Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is

followed. The actual date of receipt will be used for all other purposes.
(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(a). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 19, 2007 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3763 for appropriate action in the normal course of business on the Amendment/Response received April 23, 2007.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WM. BRUCE DAY
DAY LAW FIRM,P.C.
4330 BELLEVIEW, SUITE 300
KANSAS CITY MO 64111-3579

MAILED

SEP 21 2010

OFFICE OF PETITIONS

Patent No. 6,991,445	:	
Application No. 10/371,318	:	
Filed: February 21, 2003	:	ON PETITION
Issued: January 31, 2006	:	
Attorney Docket No. 97-421	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 4, 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** final agency action within the meaning of 5 U.S.C. § 704.

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 none of the above-listed items above.

However, 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.

If the instant petition is on the behalf of the assignee, 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.

It is noted that K-Ter Imagineering Inc. is no longer the assignee. On June 8, 2005, K-Ter Imagineering, Inc. assigned its rights to Robert J. Szabo.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(h). 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 Commissioner.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on June 4, 2010. Please send all requests for refunds to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

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.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ROGER D. GUBBELS
8600 N.E. UNDERGROUND DRIVE
KANSAS CITY, MO 64161

Enclosure: PTO/SB/96 Statement under 37 CFR 3.73(b)

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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SPENCER, FANE, BRITT & BROWNE
1000 WALNUT STREET
SUITE 1400
KANSAS CITY MO 64106-2140

MAILED
JUN 06 2011
OFFICE OF PETITIONS

Patent No. 6,991,445	:	
Application No. 10/371,318	:	
Filed: February 21, 2003	:	ON PETITION
Issued: January 31, 2006	:	
Attorney Docket No. 97-421	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed April 18, 2011 (Certificate of Mailing date of January 3, 2011), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued January 31, 2006. The last day of the grace period for paying the 3.5-year maintenance fee was January 31, 2010. 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 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) 272-3206.

/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

RONALD M. GOLDMAN
21535 HAWTHORNE BLVD.
SUITE 500
TORRANCE CA 90503

MAILED
FEB 17 2011
OFFICE OF PETITIONS

In re Patent No. 6,959,809 :
Issue Date: November 1, 2005 :
Application No. 10/371,361 : ON PETITION
Filed: February 24, 2003 :
Attorney Docket No. 11288 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 1, 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 petition is not considered to contain a proper statement of unintentional delay since the petition is presently not deemed to have been submitted by a proper party in interest within the meaning of 37 CFR 1.378(d).

If the petition is signed by an assignee or other party in interest, compliance with 37 CFR 3.73(b) must be satisfied. According, the attached blank Certificate Under 37 CFR 3.73(b) form must be completed to indicate the interest and authority of Michael Baker to sign the instant petition to reinstate the above-identified expired patent. If Mr. Baker is an attorney, no registration number was provided when signing the petition submitted on November 1, 2010.

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 delivered through one of the following mediums:

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

MICHAEL BAKER
20550 SOUTH DENKER AVE.
TORRANCE, CA 90501

Attachment: Blank Certificate Under 37 CFR 3.73(b)

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
AUG 09 2011
OFFICE OF PETITIONS

RONALD M. GOLDMAN
21535 HAWTHORNE BLVD.
SUITE 500
TORRANCE CA 90503

In re Patent No. 6,959,809	:	
Issue Date: November 1, 2005	:	
Application No. 10/371,361	:	ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. 11288	:	

This is a decision on the petition, filed July 12, 2011, which is being treated under 37 CFR 1.378(e) requesting reconsideration of a prior decision which refused to accept under 37 CFR 1.378(c) the delayed payment of a maintenance fee for the above-identified patent.

The request to accept the delayed payment of the maintenance fee is GRANTED.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/371,361	02/24/2003	Moshe Yair Begim	11288

CONFIRMATION NO. 8682

POA ACCEPTANCE LETTER

43025
LAUSON & TARVER LLP
880 APOLLO STREET
SUITE 301
EL SEGUNDO, CA 90245

OC000000049175224

Date Mailed: 08/08/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/04/2011.

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.

/kocreasy/

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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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of :
Tove Christensen :
Application No. 10/371,421 : DECISION ON PETITION
Filed: February 20, 2003 :
Attorney Docket No. 4484-US-PCD[2] :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 23, 2010. 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 41.37(b). As no claim was allowed, the application became abandoned on February 24, 2011. See MPEP 1215.04. A Notice of Abandonment was mailed July 5, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the RCE 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 the Technology Center AU 1636 for appropriate action in the normal course of business for processing of the RCE received August 12, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/371,757	02/21/2003	Gary Karlin Michelson	102.0010-03000	3538

22882 7590 10/24/2011
MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

EXAMINER
BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
10/24/2011	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
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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

In re Application of:
MICHELSON, GARY KARLIN et al
Appl. No.: 10/371,757
Filed: Feb. 21, 2003
For: INSTRUMENTATION FOR THE SURGICAL CORRECTION OF SPINAL DISEASE

DECISION ON PETITION
Under 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed on September 22, 2011 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents submitted on September 22, 2011 as listed on the current petition be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17 (g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application. The expunged material has been removed from the official file and stored in a separate artefact folder sealed from the public.

Petition to expunge GRANTED.

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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MAILED

OCT 06 2010

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,656,893	:	DECISION ON REQUEST FOR
SEFIDVASH, KHORVASH	:	RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/372,158	:	
Filed: February 21, 2003	:	
Attorney Docket No. 13915US02	:	

This is a decision on the petition filed on June 10, 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 four hundred fifty-seven (1457) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

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 February 22, 2006, and ends on May 18, 2008, the day before the RCE was filed, and is 817 (not 818) days. See 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, the patent term adjustment remains one thousand four hundred fifty-six (1456) 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

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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WOMBLE CARLYLE SANDRIDGE &
RICE PLLC
ATTN PATENT DOCKETING
PO BOX 7037
ATLANTA GA 30357-0037

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Lamberti, et al.	:	
Application No. 10/372,643	:	ON REQUEST FOR
Filed: February 21, 2001	:	RECONSIDERATION OF
Attorney Docket Number: P63782 1020.1	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 18, 2010. Applicants believe that they should be accorded an additional PTA of 129 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].

In view thereof, the correct determination of PTA prior to issuance is **eighty-three (83) days** (253 days of PTO delay, reduced by 170 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

---

[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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/20/09

TO SPE OF : ART UNIT 2877 Totaley, Gregory (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/372763 Patent No.: 6922246

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

H. Riley
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: Approved.

/Gregory J. Toatley, Jr./ — **SPE**

AU 2877 — **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.

MAILED
JUL 08 2011
OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of :
Hatanaka et al. :
Application No. 10/372,957 :
In re Patent No. 7,858,112 : DECISION ON PETITION
Filing Date: February 26, 2003 : PURSUANT TO 37 C.F.R.
Issue Date: December 28, 2010 : § 3.81(B)
Attorney Docket Number: P23267 :
Title: PERCUTANEOUS ABSORPTION :
SYSTEM AND PERCUTANEOUS :
ABSORPTION METHOD :

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed June 14, 2011, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED.**

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner has requested that the name of the Assignees should be changed from "Lintec Corporation, Toky (JP); Kenji Sugibiayashi (emphasis added), Saitama (JP)" to "Lintec Corporation, Toky (JP); Kenji Sugibayashi, Saitama (JP)."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) 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.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on March 10, 2003, listing "Lintec Corporation, Toky (JP); Kenji Sugibayashi, Saitama (JP)" as the Assignees.

Payment of the required $100 certificate of correction fee and the $130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, correcting the Assignee information to "Lintec Corporation, Toky (JP); Kenji Sugibayashi, Saitama (JP)."

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
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	10373296
Filing Date	24-Feb-2003
First Named Inventor	Frederick Hudson
Art Unit	3628
Examiner Name	DANIEL VETTER
Attorney Docket Number	203187-0002-00-US
Title	Remote materials management system and method

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 23973

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 first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Fred Hudson THG Logistics Co.
Address	1147 St. Finegan Drive
City	West Chester
State	PA
Postal Code	19382
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Robert Cannuscio/
Name	Robert Cannuscio
Registration Number	36469

UNITED STATES 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 : December 6, 2011

In re Application of :

Frederick Hudson

Application No : 10373296

Filed : 24-Feb-2003

Attorney Docket No : 203187-0002-00-US

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 December 6, 2011

The request is **APPROVED.**

The request was signed by Robert Cannuscio (registration no. 36469) on behalf of all attorneys/agents associated with Customer Number 23973 . All attorneys/agents associated with Cusotmer Number 23973 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 correspondence address:

Name	Fred Hudson
Name2	THG Logistics Co.
Address 1	1147 St. Finegan Drive
Address 2	
City	West Chester
State	PA
Postal Code	19382
Country	US

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.

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of
Chun-un Kang
Application No. 10/373,708
Filed: February 27, 2003
Attorney Docket No. Q73824

DECISION ON PETITION

This is a decision on the petition, filed July 19, 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 **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed November 21, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 3, 2007.

Petitioner asserts that the Office action dated November 21, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed 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 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 April M. Wise 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 the Technology Center technical support staff of Art Unit 2136 for re-mailing the Office action of November 21, 2006. The period for reply will run from the mailing date of the Office action.

/Carl Friedman/
Carl Friedman
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)
6,915,696	2005-07-12	10/373,840	2003-02-27	P07827US00

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

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	/Douglas E. Jackson/	Date (YYYY-MM-DD)	2011-02-03
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. 6915696
Issue Date: July 12,2005
Application No. 10373840
Filed: February 27,2003
Attorney Docket No. P07827US00/RFH

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

This is a decision on the electronic petition, filed February 3,2011 ,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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Patent No. 6,960,044 :
Issue Date: November 1, 2005 :
Application No. 10/373,870 : ON PETITION
Filed: February 27, 2003 :
Patentee(s): Van Wadsworth, et. al. :

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

The petition is **dismissed**.

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).

The petition lacks item (1) above. In this regard, the petition 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.

It appears that the present petition, containing the statement of unintentional delay, is signed by a Managing Member of the assignee who has failed to comply with the requirements of 37 CFR 3.73(b) [1]. Therefore, the instant petition is considered not to contain a proper statement of unintentional delay; and thus, cannot be granted at this time.

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

[1] Petitioner should note that filing the required response should not be construed as meaning that the petition will be granted under the provisions of 37 CFR 1.378(c).

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 blank Statement under 37 CFR 3.73(b) is enclosed for petitioner's convenience.

It is noted that the address given in the present petition is different from the correspondence address of record. Therefore, a courtesy copy of this decision is being mailed to petitioner at the address given in the petition. Thereafter, all future correspondence regarding this patent will be mailed to the address of record unless otherwise instructed.

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 above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

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.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund totaling $2,130, which includes the maintenance fee and surcharge. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b)

cc: Gene Combest
C & W Industries, LLC
261 Welch Avenue
Union Springs, AL 36089

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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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Patent No. 7,713,251	:	NOTICE
Issue Date: May 11, 2010	:	
Application No. 10/374,000	:	
Filed: February 25, 2003	:	
Attorney Docket No. STD 98.03 CON2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 9, 2010. 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.

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.

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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NORTH AMERICA INTELLECTUAL
PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,298,730 :
Issue Date: November 20, 2007 :
Application No. 10/374,235 : DECISION ON PETITION
Filed: February 25, 2003 :
Attorney Docket No. ASTP0243USA :

This is a decision on the Request For Certificate Of Correction Pursuant 37 CFR 1.323, filed March 24, 2008, requesting correction on the Title Page of the subject patent to correct the assignee's name. The Request is being treated as a Petition Under 37 CFR 3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with the 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 and that 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 name of the assignee's name identified thereon from:

"Asutek Computer Inc, Taipei (TW) and Innovative Sonic Limited, Tortola (VG)"

to:

--Innovative Sonic Limited, Tortola (VG)--

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 the present Petition.

The person signing the petition requests a change of correspondence address to the address given in the petition. There is, however, 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 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. 7,298,730.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Patent of Hsiang :
Patent No. 7,298,730 :
Issued: November 20, 2007 : NOTICE
Application No. 10/374,235 :
Filed: February 25, 2003 :
Attorney Docket No. ASTP0243USA

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed May 13, 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.

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, the appropriate 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 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-05-10

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/374247 Patent No.: 6794180

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

Certificates of Correction Branch
Angela Green

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 37CFR 1.60 or under 35USC 120) of a case in which the foreign priority had been properly claimed. It is not the proper basis for perfecting priority under 35USC 120.

TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1655
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-05-10

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/374247 Patent No.: 6794180

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

Certificates of Correction Branch
Angela Green

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) 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
SPE

1655
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 : February 14, 2011

Patent No. :6794180
Inventor(s) :10/374247
Issued :September 21, 2004
Title :MORPHOLOGICAL MUTANTS OF FILAMENTOUS FUNGI

Re: Request for Certificate of Correction

Reconsideration has been given your request for the issuance of a certificate of correction under the provisions of Rule 1.322 and .1.323.

As a result of applicants failure to fully comply with 35 U.S.C. 120 in that requirements were not met; the foreign Priority data was not included in applicants Letters Patent. 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 CFR1.60 or under 35 USC 120) of a case in which foreign priority had been properly claimed. It is not the proper basis for perfecting priority under 35 USC 120.

Accordingly, approval is not warranted unless a petition is granted. Any petition should be directed to the attention of the Assistant Commissioner for patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn.: Office of Petitions

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Robert L. Stames, Esq.,
Novozymes, Inc.
1445 Drew Avenue
Davis, CA 95618

/arg

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)
6916210	2005-07-12	10374401	2003-02-26	60298-648 PUS1

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

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	/Theodore W. Olds/	Date (YYYY-MM-DD)	2010-09-08
Name	Theodore W. Olds	Registration Number	33080

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. 6916210
Issue Date: July 12,2005
Application No. 10374401
Filed: February 26,2003
Attorney Docket No. 60,246-200; 9297B

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

This is a decision on the electronic petition, filed September 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 September 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FEB 28 2011
OFFICE OF PETITIONS

CHRISTOPHER M. AUBUCHON
EXAJOULE LLC
1066 METRO CIRCLE
PALO ALTO CA 94303

In re Patent No. 6,900,922	:	
Issue Date: May 31, 2005	:	
Application No. 10/374,418	:	ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. EXAJ-003	:	

This is a decision on the petition filed December 13, 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 June 1, 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.

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: Christopher M. Aubuchon
4170 MacKay Drive
Palo Alto, CA 94306

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)
6842850	2005-01-11	10374444	2003-02-25	42P14034D

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

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)	2010-09-28
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

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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. 6842850
Issue Date: January 11,2005
Application No. 10374444
Filed: February 25,2003
Attorney Docket No. 42P14034D

:
: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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
ROBL et al.	:	
Application No. 10/374,512	:	ON APPLICATION FOR
Filed: 02/27/2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 75820.054012	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b) filed December 20, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 765 days, not 96 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 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).

---

[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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
James M. Robl, et al.	:	
Application No. 10/374,512	:	DECISION ON PETITION
Filed: February 27, 2003	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 75820.054012	:	

This is a decision on the petition under 37 CFR 1.313(c), filed December 29, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

There was no submission submitted herewith petition. The IDS was omitted.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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

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

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

By fax: **(571) 273-0025**
Office of Petitions

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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 Application of	:	
James M. Robl, et al.	:	
Application No. 10/374,512	:	DECISION GRANTING PETITION
Filed: February 27, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 75820.054012	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed, January 7, 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 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]

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

This application is being referred to Technology Center AU 1632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed on December 29, 2010.

/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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CHRISTOPHER M. AUBUCHON
1066 METRO CIRCLE
PALO ALTO CA 94303

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Patent No. 6,906,848	:	
Issued: June 14, 2005	:	
Application No. 10/374,574	:	DECISION ON PETITION
Filed: February 24, 2003	:	
Attorney Docket No. EXAJ-005	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 13, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 15, 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.

Additionally, 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. 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. 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
Petitions Examiner
Office of Petitions

cc: Christopher M. Aubuchon
4170 MacKay Drive
Palo Alto, CA 94306

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.
10/374,683	02/25/2003	Munir H. Nayfeh	1201.67512	7585

24978 7590 09/26/2011
GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

EXAMINER
ROSENBERGER, FREDERICK F

ART UNIT	PAPER NUMBER
2878	

MAIL DATE	DELIVERY MODE
09/26/2011	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

In re Patent No. 6992298. Issue Date: 31 January 2006 Appl No.: 10/374683 Filed: 25 February 2003 For: Coated Spherical Silicon Nanoparticle Thin Film UV Detector with UV Response and Method of Making Same	:	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed 08 September 2009 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.

David P. Porta
Supervisory Patent Examiner
Art Unit 2884
Technology Center 2800

GREER, BURNS & CRAIN
300 S WACKER DR.
25TH FLOOR
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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William H. Dippert
Eckert Seamans Cherin & Mellott, LLC
U.S. Steel Tower
600 Grant Street, 44th Floor
Pittsburgh PA 15219

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Anthony Atala, et al.	:	
Application No. 10/374,740	:	ON PETITION
Filed: February 25, 2003	:	
Attorney Docket No. 298856-00136	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2011, 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 6, 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 September 7, 2010. See MPEP 1215.04. The Notice of Abandonment was mailed February 16, 2011.

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, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1632 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

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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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

MAILED
NOV 15 2011
OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING PETITION
John J. Hale	: AND
Application No. 10/374,742	: DECISION ON PETITION
Filed: 02/25/2003	: UNDER 37 CFR 1.78(a)(3) and 1.55(c)
Attorney Docket No. BRBX-0001	:

This is a decision on the petition styled under 37 CFR 1.78(a)(3), filed on October 26, 2011, 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, and as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, set forth in the concurrently-filed amendment and application data sheet. This is also a decision on the petition under 37 CFR 1.137(b), filed on October 26, 2011, to revive the above-identified application.

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

The petition under 37 CFR 1.78(a)(3) and 1.55(c) is **DISMISSED.**

Petition Under 37 CFR 1.137(b)

The application became abandoned on June 9, 2006, for failure to timely file a response to the final Office action mailed on March 8, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 4, 2006.

Petitioner requests the present application be revived for copendency with a divisional application, No. 11/530,368. A review of Office PALM records reveals that continuing application No. 11/530,368 was filed on September 8, 2006.

Since this application is revived for purposes of continuity only with Application No. 11/530,368, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced continuing application.

Petition Under 37 CFR 1.78(a)(3)

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.

The petition lacks item (3). Specifically, petitioner has not provided an acceptable 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.

A renewed petition must be filed, including a proper statement of unintentional delay in accordance with 37 CFR 1.78(a)(3)(iii).

Petition Under 37 CFR 1.55(c)

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) 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); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Application 10/374,742, was filed on February 25, 2003, and is a continuation of international Application No. PCT/GB2001/0003839, filed on August 28, 2001, which is after November 29, 2000 and within 12 months of August 25, 2000, the date the foreign application was filed.[1]

The petition lacks item (4). In this regard, petitioner has not provided a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

A renewed petition must be filed accompanied by a proper statement of unintentional delay in accordance with 37 CFR 1.55(c)(3).

Receipt of the petition fee of $1,410.00 is acknowledged. No additional fees are due in connection with this petition.

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

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

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

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

A reply may also be filed via the EFS-Web system of the USPTO.

[1] August 25, 2001 fell on a Saturday, and August 27, 2001, was an official holiday in the United Kingdom. Therefore, the international application filed on August 28, 2001, was timely filed within 12 months of the filing date of the prior-filed foreign application. PCT Rule 80.5.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Bryan Lin
Legal Advisor
Office of PCT Legal Administration

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P.O. BOX 832570
RICHARDSON TX 75083

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re Application of
John J. Hale
Application No. 10/374,742
Filed: 02/25/2003
Attorney Docket Number: BRBX-0001

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) and 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 1.55(c), filed on December 6, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to a prior-filed international application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, both set forth in the previously-filed application data sheet.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

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.

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.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) 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); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on February 25, 2003, and is a continuation of international Application No. PCT/GB2001/003839 filed on August 28, 2001, which is after November 29, 2000 and within 12 months of August 25, 2000 (the filing date of the foreign application to which benefit is now being claimed).[1] On October 26, 2011, a supplemental Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) 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. § 119(a)-(d) and

[1] August 25, 2001 fell on a Saturday, and August 27, 2001, was an official holiday in the United Kingdom. Therefore, the international application filed on August 28, 2001, was timely filed within 12 months of the filing date of the prior-filed foreign application. PCT Rule 80.5.

37 CFR 1.55(a)(1) 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.

A corrected Filing Receipt, which includes the priority claims to the prior-filed international and foreign applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Bryan Lin

Bryan Lin
PCT Legal Examiner
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
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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
10/374,742	02/25/2003	2612	644	BRBX-0001	38	4

CONFIRMATION NO. 5401

CORRECTED FILING RECEIPT

27964
HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

OC000000050708029

Date Mailed: 12/23/2011

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)

John J. Hale, London, UNITED KINGDOM;

Assignment For Published Patent Application

BearBox, Com Ltd., London, UNITED KINGDOM

Power of Attorney:

M Cheairs--20382	Richard Krobusek--44851
David Hitt--33182	Greg Parker--44995
Charles Gaines--36804	Mark Kelley--45857
Jimmy Heisz--38914	Ronald Corbett--47500
Glenn Boisbrun--39615	James Justiss--48981

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB01/03839 08/28/2001

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.)
UNITED KINGDOM 00210088.0 08/25/2000

If Required, Foreign Filing License Granted: 04/16/2003
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/374,742**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No
**** SMALL ENTITY ****

Title

Secure unattended delivery system

Preliminary Class

340

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

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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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Greenburg Traurig(BOS)
One International Place, 20th Fl
Attn: Patent Administrator
Boston Ma 02110

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,381,745	:
Kozikowski et al.	: DECISION UPON REMAND AND
Issue Date: June 3, 2008	: RECONSIDERATION OF
Application No. 10/374,765	: PATENT TERM ADJUSTMENT
Filed: June 25, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 123101-011108/CON	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Ligands for Metabotropic Glutamate Receptors and Inhibitors of Naaladase	:

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).

A telephonic call to counsel Xie Fang of Greenburg Taurig confirmed the acceptance of 645 days of PTA.

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 six hundred forty-five (645) 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 six hundred forty-five (645) 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 : 7,381,745

DATED : **June 3, 2008** **DRAFT**

INVENTOR(S) : Martin 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 377 days

Delete the phrase "by 377 days" and insert – by 645 days--

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10374765 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10374765

Application Filing Date	02/25/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	06/03/2008	Non-Overlapping USPTO Delays:	557
A Delays	557	PTO Manual Adjustment	268
B Delays	0	Applicant Delay (APPL)	180
C Delays	0	Total PTA (days)	645

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
80	09/08/2011		P028	Adjustment of PTA Calculation by PTO	268		0
71	06/03/2008		PTAC	Patent Issue Date Used in PTA Calculation			0
71.5	05/14/2008	02/25/2006	PTA36M	PTA 36 Months	0		0
70	05/07/2008		EFDC	Export to Final Data Capture			0
69	05/06/2008		FIDC	Finished Initial Data Capture			0
68	05/06/2008		D1935	Dispatch to FDC			0
67	04/24/2008		PILS	Application Is Considered Ready for Issue			0
66	04/23/2008		N084	Issue Fee Payment Verified			0
65	04/23/2008		IFEE	Issue Fee Payment Received			0
64	01/28/2008		EIDC	Export to Initial Data Capture			0
62	01/24/2008		MN/=.	Mail Notice of Allowance			0
61	01/23/2008		IREV	Issue Revision Completed			0
60	01/23/2008		DVER	Document Verification			0
59	01/23/2008		EX.A	Examiner's Amendment Communication			0
58	01/22/2008		N/=.	Notice of Allowance Data Verification Completed			0
57	01/22/2008		DOCK	Case Docketed to Examiner in GAU			0
56	01/22/2008		CNTA	Allowability Notice			0
50	11/06/2007		FWDX	Date Forwarded to Examiner			0
49	10/31/2007	08/02/2007	A...	Response after Non-Final Action		90	43
48	10/31/2007		XT/G	Request for Extension of Time - Granted			0
43	05/02/2007		MCTNF	Mail Non-Final Rejection			0
42	04/30/2007		CTNF	Non-Final Rejection			0
41	02/25/2007		FWDX	Date Forwarded to Examiner			0
39	02/25/2007		FWDX	Date Forwarded to Examiner			0
37	02/25/2007		ABN9	Disposal for a RCE / CPA / R129			0
40	02/16/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
38	02/16/2007		RCEX	Request for Continued Examination (RCE)			0
36	02/16/2007		XT/G	Request for Extension of Time - Granted			0
35	02/16/2007		BRCE	Workflow - Request for RCE - Begin			0
34	02/05/2007		MM327	Mail Miscellaneous Communication to Applicant			0
33	02/01/2007		M327	Miscellaneous Communication to Applicant - No Action Count			0
32	08/21/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
31	08/17/2006		CTFR	Final Rejection			0
29	05/23/2006		FWDX	Date Forwarded to Examiner			0
28	05/04/2006	02/03/2006	A...	Response after Non-Final Action		90	19
27	05/04/2006		XT/G	Request for Extension of Time - Granted			0
22	12/28/2005		PA..	Change in Power of Attorney (May Include Associate POA)			0
23	12/27/2005		C.AD	Correspondence Address Change			0
21	12/23/2005		C.AD	Correspondence Address Change			0
19	11/03/2005	04/25/2004	MCTNF	Mail Non-Final Rejection	557		-1
18	10/31/2005		CTNF	Non-Final Rejection			0
16	03/19/2004		DOCK	Case Docketed to Examiner in GAU			0
15	01/09/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	01/09/2004		DOCK	Case Docketed to Examiner in GAU			0
13	01/09/2004		DOCK	Case Docketed to Examiner in GAU			0
11	12/12/2003		DOCK	Case Docketed to Examiner in GAU			0
9	09/08/2003		OIPE	Application Dispatched from OIPE			0
8	09/08/2003		COMP	Application Is Now Complete			0
7	06/30/2003		FLFEE	Payment of additional filing fee/Preexam			0
6	05/28/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
45	05/27/2003		IDSC	Information Disclosure Statement considered			0
44	05/27/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
25	05/27/2003		RCAP	Reference capture on IDS			0
4	04/24/2003		L128	Cleared by L&R (LARS)			0
3	04/17/2003		SCAN	IFW Scan & PACR Auto Security Review			0
2	03/17/2003		SCAN	IFW Scan & PACR Auto Security Review			0

17	02/25/2003	A.PE	Preliminary Amendment	0
10	02/25/2003	A.PE	Preliminary Amendment	0
1	02/25/2003	IEXX	Initial Exam Team nn	0

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WASHINGTON, DC 20001-4413

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Patent of Israel et al. :
Patent No. 7,678,885 :
Issue Date: March 16, 2010 :
Application No. 10/375,150 :
Filing Date: February 28, 2003 :
Attorney Docket No. 08702.0045-03000 :

DECISION ON REQUEST
FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT

This is a decision on the petition filed May 14, 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 one thousand nine hundred forty-nine (1949) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The petition only asserts a single basis for alleging the patent term adjustment set forth on the patent is incorrect. Specifically, Patentees state,

> [T]he PTO has incorrectly excluded 310 days under 37 C.F.R. § 1.702(b), which provides the exclusion of "(4) Any time consumed by review by the Board of Patent of Patent Appeals and Interferences or a Federal court." However, no time was consumed by review by either the Board or a Federal court in this application.... [T]he Board never reviewed this application, and consequently, no time was consumed by the Board.

Relevant Procedural Background

A Notice of Appeal and a "Pre-Appeal Brief Request for Review" were filed July 24, 2007.

A "Notice of Panel Decision from Pre-Appeal Brief Review" was mailed September 5, 2007. The notice stated, "A Pre-Appeal Brief conference has been held [and the] application remains under appeal because there is at least one actual issue for appeal."

An Appeal Brief was filed March 5, 2008.

The examiner issued a non-final Office action re-opening prosecution on May 29, 2008.

When calculating the patent term adjustment, the Office did not include the time period during which the application was under appeal as part of the period of delay under 37 C.F.R. § 1.703(b).

Discussion

The proper interpretation of the phrase "time consumed by review by the Board," as set forth in 37 C.F.R. § 1.702(b), can easily be ascertained by reviewing corresponding language set forth in 37 C.F.R. § 1.703(b).

37 C.F.R. § 1.703(b) states, with emphasis added,

> 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*:...
>
> (4) The number of days, if any, in *the period beginning on the date on which a notice of appeal* to the Board of Patent Appeals and Interferences *was filed* under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last 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 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, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

In view of 37 C.F.R. § 1.703(b)(4), the Office acted properly when the Office excluded the time period during which the application was under appeal from the period of adjustment under 37 C.F.R. § 1.702(b).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

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.

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

cc: Elizabeth E. Mathiesen
Wyeth LLC
Patent Department
Five Giralda Farms
Madison, NJ 07940

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
AUG 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Lendlein et al.	:	
Application No. 10/375210	:	
Filing or 371(c) Date: 02/26/2003	:	ON PETITION
Patent No. 7217744	:	
Issue Date: 05/15/2007	:	
Title of Invention:	:	
POLYMERIC NETWORKS	:	

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: PAVIS EG
POSTFACH 1546
82305 STARNBERG
GERMANY

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SAN DIEGO CA 92193

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Laurent DESCLOS et al.	:	
Application No. 10/375,423	:	DECISION ON PETITION
Filed: February 27, 2003	:	
Attorney Docket No. ETRNS.020A	:	

This is a decision on the petition, filed August 09, 2011, which is being treated as a petition under 37 CFR 1.8(b), (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 file a substitute oath and declaration as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 22, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 23, 2011.

Petitioner asserts that a proper declaration was timely filed with the Office on February 27, 2003. Petitioner also states that a review of PAIR appears that the Office had received both the declaration and assignment documents and that the Office inadvertently combined and scanned the first age of the declaration with the second page of the assignment documents and vice versa. As evidence the petitioner has provided a copy of the previously filed declaration, along with the USPTO return postcard receipt which includes a date stamp of February 27, 2003

A review of the Office record indicates that a proper declaration was filed in the Office on February 27, 2003. The copy of the declaration received with the petition August 09, 2011 will be accepted in place of the reply shown to have been mailed on February 27, 2003.

Accordingly, the Notice of Abandonment mailed June 09, 2011 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 Office of Data Management.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,890,938	:	DECISION
Jensen et al.	:	DISMISSING REQUEST FOR
Issue Date: February 15, 2011	:	RECONSIDERATION OF PATENT
Application No. 10/375,538	:	TERM ADJUSTMENT
Filed: February 26, 2003	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 1565.047US1	:	

This is a decision on the petition filed March 4, 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 three hundred fifty-one (1351) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentee disputes the number of days of B delay. Patentee's argument has been considered, but not found persuasive.

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).

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 is six hundred fifty-eight (658) days, beginning on February 27, 2006, the date after the date that is three years after the filing date of the application and ending on December 16, 2007, the day before the filing of the RCE. See 35 U.S.C. 154(b)(1)(B)(i).

Additionally, 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), 37 CFR 1.703(b)(4). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is ninety (90) days, beginning on January 5, 2007, the date of filing of the notice of appeal and ending on April 4, 2007, the subsequent date of the mailing of the nonfinal Office action. Thus, B delay is 568 (658 - 90) days.

Accordingly, the patent term adjustment remains 1332 days.

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 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.

Telephone inquiries specific to this matter 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/375,574	02/27/2003	Anthony Franklin Nikodym	483471-002-C1	9144

33375 7590 01/11/2012
THOMPSON HINE LLP
Intellectual Property Group
10050 Innovation Drive
Suite 400
DAYTON, OH 45342-4934

EXAMINER
ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
3742	

NOTIFICATION DATE	DELIVERY MODE
01/11/2012	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):

ipdocket@thompsonhine.com

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THOMPSON HINE LLP
Intellectual Property Group
10050 Innovation Drive
Suite 400
DAYTON OH 45342-4934

In re Application of:
NIKODYM, ANTHONY FRANKLIN
Serial No. 10/375,574
Filed: Feb. 27, 2003
Docket: 483471-002-C1
Title: WELD WIRE WITH ENHANCED SLAG REMOVAL

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition and request under 37 CFR 1.59(b), filed Nov. 3, 2011 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) has been paid.

In the petition, the petitioner states that a non-patent literature (JPO Office action under 2011-111441) filed with the Information Disclosure Statement on Nov. 3, 2011 containing attorney client privileged information (four pages) was filed inadvertently. Petitioner requests removal of the four-page information of the NPL inadvertently filed with the IDS.

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has unintentionally filed the information on Nov. 3, 2011, the four-page information has been blocked from public view in the Public Pair system.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Robin O. Evans

Robin Evans, Acting, Director
Technology Center 3700

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MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,744,453	: DECISION ON
Larry J. Pacey,	: REQUEST FOR RECONSIDERATION
Application No. 10/375,675	: of PATENT TERM ADJUSTMENT
Issue Date: June 29, 2010	: and
Filed: February 26, 2003	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 247079-000140USP1	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed August 27, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand eight hundred seventy-two (1872) days to two thousand forty-three (2043) days.

The petition is **GRANTED.**

On March 16, 2010, the instant application matured into U.S. Patent No. 7,678,889 with a patent term adjustment of fifty-four (54) days. The Office determined a patent term adjustment of 1872 days based upon 500 days of Office delay pursuant to 37 CFR 1.703(a)(1), 136 days pursuant to 37 CFR 1.703(a)(5), and 1413 days pursuant to 37 CFR 1.703(b), reduced by 4 and 32 days of Applicant delay pursuant to 37 CFR 1.704(b), 5 days of Applicant delay pursuant to 37 CFR 1.704(c)(10), and 136 days of overlap between "A" and "B" delay.

Patentees are correct 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. The over three year period began on February 27, 2006 and ended on July 10, 2006 (the date Applicant filed a Notice of Appeal), and resumed on March 19, 2009 (the date after the Board mailed a decision favorable to Applicant) and ended on June 29, 2010 (the patent issue date). As such, the total "B" delay period is 601 days, and the "C" delay period (July 10, 2006 to March 18, 2009) is 983 days.

In view thereof, the correct number of days of patent term adjustment is 2043 days (636 days of "A"' delay, 601 days of "B" delay, and 983 days of "C" delay, reduced by 41 days of Applicant delay and 136 days of overlap).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) 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 forty-three (2043)** 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 : 7,744,453 B2

DATED : **June 29, 2010**

INVENTOR(S) : Pacey

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 1872 days.

Delete the phrase "by 1872 days" and insert – by 2043 days--

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Donald Hilliard
P.O Box 2025
El Granada CA 94018-2025

MAILED
MAR 21 2011
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In re Application of	:	
Donald Bennett Hilliard	:	
Application No. 10/375,938	:	DECISION ON PETITION
Filed: February 26, 2003	:	
Attorney Docket No. DBH004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2011, 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 October 25, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 25, 2006. Accordingly, the date of abandonment of this application is October 26, 2006. The Notice of Abandonment was mailed November 29, 2006.

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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
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)
6958875	2005-10-25	10376082	2003-02-27	

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

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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In re Patent No. 6958875
Issue Date: October 25,2005
Application No. 10376082
Filed: February 27,2003
Attorney Docket No. 139-026

:
: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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/376,185	02/26/2003	Anthony Franklin Nikodym	483471-002-D1	9489

33375 7590 01/11/2012
THOMPSON HINE LLP
Intellectual Property Group
10050 Innovation Drive
Suite 400
DAYTON, OH 45342-4934

EXAMINER
ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
3742	

NOTIFICATION DATE	DELIVERY MODE
01/11/2012	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):

ipdocket@thompsonhine.com

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THOMPSON HINE LLP
Intellectual Property Group
10050 Innovation Drive
Suite 400
DAYTON OH 45342-4934

In re Application of:
NIKODYM, ANTHONY FRANKLIN
Serial No. 10/376,185
Filed: Feb. 26, 2003
Docket: 483471-002-D1
Title: WELD WIRE WITH ENHANCED SLAG REMOVAL

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition and request under 37 CFR 1.59(b), filed Nov. 3, 2011 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) has been paid.

In the petition, the petitioner states that a non-patent literature (JPO Office action under 2011-111441) filed with the Information Disclosure Statement on Nov. 3, 2011 containing attorney client privileged information (four pages) was filed inadvertently. Petitioner requests removal of the four-page information of the NPL inadvertently filed with the IDS.

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has unintentionally filed the information on Nov. 3, 2011, the four-page information has been blocked from public view in the Public Pair system.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Robin O. Evans

Robin Evans, Acting, Director
Technology Center 3700

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: 029310.52142US	Patent Number: 7,662,948
Filing Date (or 371(b) or (f) Date): March 3, 2003	Issue Date: February 16, 2010
First Named Inventor: Jens KURRECK	
Title: Antisense Oligonucleotides Against VR1	

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	Date August 5, 2010
Name (Print/Typed) J. D. Evans	Registration Number 26,269

***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 form is 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 22313-1 450.**

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

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/13/2010

Applicant	: Jens Kurreck	: DECISION ON REQUEST FOR
Patent Number	: 7662948	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/376,341	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **939** 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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Garlick Harrison & Markison (VIXS)
P.O. Box 160727
Austin, TX 78716-0727

MAILED

SEP 13 2011

OFFICE OF PETITIONS

In re Application of	:	
James Doyle, et. al.	:	
Application No. 10/376,400	:	DECISION GRANTING PETITION
Filed: February 28, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. VIXS057	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 24, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed 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 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 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 nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2462 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 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

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/376,400	02/28/2003	2462	427	VIXS057	16	2

CONFIRMATION NO. 2165

CORRECTED FILING RECEIPT

93253
Garlick Harrison & Markison (VIXS)
P.O. Box 160727
Austin, TX 78716-0727

OC000000049746161

Date Mailed: 09/09/2011

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)

James Doyle, Toronto, CANADA;
William Yuen, Scarborough, CANADA;
James Ward Girardeau JR., Austin, TX;

Power of Attorney: The patent practitioners associated with Customer Number 93253

Domestic Priority data as claimed by applicant

This application is a CIP of 09/864,524 05/24/2001 PAT 7,099,951
and claims benefit of 60/437,381 12/31/2002

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: 03/31/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/376,400**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method and apparatus for affiliating a wireless device with a wireless local area network

Preliminary Class

370

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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AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,947,540
Issue Date: September 20, 2005
Application No. 10/376,472
Filed: February 28, 2003
Attorney Docket No. AMT-9603C1

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the PETITION UNDER 37 C.F.R. §1.78(a)(3), filed September 29, 2010, which is being treated in part 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. 09/382,913 by way of a certificate of correction.

The petition under 37 CFR 1.78 is **DISMISSED**.

It is noted that the requested Certificate of Correction was issued on November 16, 2010. However, this occurred without issuance of a decision on the petition under 37 CFR 1.78(a)(3). Such a favorable decision is required for the issuance of the Certificate of Correction to be considered proper.

Patentee seeks to correct the failure to make reference to prior copending application No. 09/382,913 as required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2). A review of the file record fails to disclose that a claim for the benefit of priority to the prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii). Moreover, no petition and amendment were filed during the pendency of the application to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed February 28, 2003. 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.

As stated in MPEP 1481, a Certificate of Correction can be used, with respect to 35 U.S.C. 120 priority, to correct:

> (A) the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2); or
> (B) an incorrect 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)[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).

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 requirements of 37 CFR 1.78(a)(1) were met in application No. 10/376,472. Given the issuance of the prior-filed applications with the claims for priority therein, it is concluded that the requirements of this section that each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first

---

[1] 37 CFR 1.78(a)(1) provides that: A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:
(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or
(ii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and have paid therein the basic filing fee set forth in § 1.16 within the pendency of the application.

paragraph of 35 U.S.C. 112 and that each prior-application was entitled to a filing date and the basic filing fee was paid were met.

As such, it is also clear from the record of the patent and the parent applications that priority is appropriate.

Further, patentee has submitted a Certificate of Correction, setting forth the requested correction.

In addition, receipt of the $1,410 surcharge fee, as well as the $100 certificate of correction fee is acknowledged.

However, patentee has not submitted the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application. Such reference must be set forth in an amendment or application data sheet in compliance with §1.121 and separate from the petition.

In view thereof, the petition under 37 CFR 1.78(a)(3) is dismissed.

On renewed petition, patentee needs to submit (1) reference to prior-filed application No. 09/382,913 as required by 37 CFR 1.78(a)(3)(i).

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
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AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

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APR 13 2011
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In re Patent No. 6,947,540	: DECISION GRANTING PETITION
Issue Date: September 20, 2005	: UNDER 37 CFR 1.78(a)(3)
Application No. 10/376,472	:
Filed: February 28, 2003	:
Attorney Docket No. AMT-9603C1	:

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. §1.78(a)(3), filed March 15, 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. 09/382,913 by way of a certificate of correction.

The petition under 37 CFR 1.78 is **GRANTED**.

Patentee continues to seek to correct the failure to make reference to prior copending application No. 09/382,913 as required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2). By decision mailed January 25, 2011, the initial petition filed September 29, 2010 was dismissed. The petition did not include the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application. A reference set forth in an amendment or application data sheet in compliance with §1.121 and separate from the petition was required.

On instant petition, patentee argues that the reference set forth in the Certificate of Correction is sufficient to meet the requirements. Nonetheless, patentee also provides the required reference in an application data sheet.

Patentee's argument that the reference set forth in the Certificate of Correction is sufficient is not persuasive. 37 CFR 1.78 requires a reference be set forth in the first sentence of the specification or in an application data sheet. Thus, on petition under 37 CFR 1.78(a)(3), it is required that petitioner submit either an amendment to the specification or an application data sheet with the requested reference.

The application data sheet has been reviewed and found in compliance with 37 CFR 1.78(a)(2).

All requirements for relief under 37 CFR 1.78(a)(3) have now been met. The petition is granted.

As the requested Certificate of Correction issued on November 16, 2010, no further action to correct the priority claim is necessary. Further, this favorable decision ratifies the issuance of the Certificate of Correction on November 16, 2010 as a proper action.

As the Certificate of Correction has already been issued, no further action to correct the priority claim is required.

The address set forth on the petition is different from the correspondence address of record for the patent. A courtesy copy of this decision is being sent to the address on the petition. All further correspondence will be sent to the correspondence address of record until (if desired) a proper change of correspondence address is filed.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Daniel Glitto
Hanley, Flight & Zimmerman LLC
150 South Wacker Drive
Suite 2100
Chicago IL 60606

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)
6954322	2005-10-11	10376565	2003-02-27	

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

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. 6954322
Issue Date: October 11,2005
Application No. 10376565
Filed: February 27,2003
Attorney Docket No. 139-027

:
: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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Browdy and Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington DC 20006

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FEB 13 2012
OFFICE OF PETITIONS

In re Application of :
Corghi :
Application Number: 10/376,712 :
Filing or 371(c) Date: March 3, 2003 :
Attorney Docket Number: CORGHI12 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed on January 13, 2012.

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(c) 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) 272-3231.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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ORGANOGENESIS, INC.
150 DAN ROAD
CANTON MA 02021

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OCT 12 2010
OFFICE OF PETITIONS

In re Patent No. 7,060,103	:	
Issue Date: June 13, 2006	:	
Application No. 10/376,788	:	ON PETITION
Filed: February 28, 2003	:	
Attorney Docket No. 68603.381 CN	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 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 14, 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).

Applicant should be aware that the petition reference Application No. 10/376,388 instead of 10/376,788.

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.

/KOC/
Karen Creasy
Petitions Examiner
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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Date Mailed : 09/28/11

Patent No. : 7921443 B2
Inventor : **Phillips , et al.**
Patent Issued : **April 05, 2011**
Docket No. : **020366-090100US**

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 file of the application for the patent reveals that in columns 3, 4, 9, 11, 13, 13, 14, 15, 17, 20, 21, 23, 27, 27, 29, 32, 34, 34, 34, 35, 36, 37 and 38, lines 59, 8, 48, 66, 29, 40, 41, 28, 31, 36, 62/63, 24, 40, 55, 66, 38, 12, 24, 54, 32, 64, 7, 36 is printed in accordance with the record (no fee or authorization to charge fee). **"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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

Qwest Communications International Inc.
1801 California Street, # 900
Denver CO 80202

Lmn

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

Date Mailed : 09/28/11

Patent No. : 7921443 B2
Inventor : **Phillips , et al.**
Patent Issued : **April 05, 2011**
Docket No. : **020366-090100US**

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 file of the application for the patent reveals that in columns 3, 4, 9, 11, 13, 13, 14, 15, 17, 20, 21, 23, 27, 27, 29, 32, 34, 34, 34, 35, 36, 37 and 38, lines 59, 8, 48, 66, 29, 40, 41, 28, 31, 36, 62/63, 24, 40, 55, 66, 38, 12, 24, 54, 32, 64, 7, 36 is printed in accordance with the record (no fee or authorization to charge fee). **"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

Qwest Communications International Inc.
1801 California Street, # 900
Denver CO 80202

Lmn

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Alexandria, VA 22313-1450
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TOMLINSON & O'CONNELL, P.C.
TWO LEADERSHIP SQUARE
211 NORTH ROBINSON, SUITE 450
OKLAHOMA CITY, OK 73102

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Kendall Clark YOUNG, et *al.*	:	
Application No. 10/377,411	:	DECISION ON PETITION
Filed: February 28, 2003	:	UNDER 37 CFR 1.181
Attorney Docket No. **082380-00530**	:	

This is a decision on the renewed petition filed August 9, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the non-final Office action mailed May 14, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 27, 2007.

Petitioner asserts that the Office action dated May 14, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

The docket records provided are insufficient to establish non-receipt in that they do not indicate documents received within the time period prior to and following the period when the Office action would have been received (May 2007 thru August 2007). The evidence provided indicates the records for the time period of July 2007 thru November 2007.

Petitioner again indicates that previously filed Correspondence Address change documents where submitted to the Office on October 31, 2006 and January 3, 2007. As indicated in the previous decision mailed June 21, 2010, the Office acknowledges receipt of these requests, however, were unable to process them because they were improperly signed.

In view of the above, the renewed request to withdrawal of the holding of abandonment cannot be granted at this time.

Petitioner may wish to 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).

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 Monica A. Graves at (571) 272-7253.

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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TOMLINSON & O'CONNELL, P.C.
TWO LEADERSHIP SQUARE
211 NORTH ROBINSON, SUITE 450
OKLAHOMA CITY, OK 73102

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MAY 09 2011

OFFICE OF PETITIONS

In re Application of
Kendall C. YOUNG, et *al.*
Application No. 10/377,411
Filed: February 28, 2003
Attorney Docket No. **2380-530**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 14, 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 August 15, 2007.

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

Petitioner indicates that the reply to the May 14, 2007 Office action was previously filed on March 6, 2007. A review of the file record discloses that the March 6, 2007 response was submitted in reply to the previous Final Office action mailed on October 11, 2006. As no reply to the May 14, 2007 has been received, the petition can not be granted at this time.

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

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

By 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 Monica A. Graves at (571) 272-7253.

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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TWO LEADERSHIP SQUARE
211 NORTH ROBINSON, SUITE 450
OKLAHOMA CITY, OK 73102

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JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Kendall C. YOUNG, *et al.*	:	
Application No. 10/377,411	:	DECISION ON PETITION
Filed: February 28, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **2380-530**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 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, May 14, 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 August 15, 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 $1620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received on June 30, 2011.

Rajesh Krishnamurthy

Rajesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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COLLARD & ROE PC
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re
Kurth, et al.
Application No. 10/377,467
Filed: February 28, 2003
Patent No. 6,813,871
Issued: November 9, 2004
Attorney Docket No. KURTH ET AL-5

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 $2075 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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CaridianBCT, Inc.
Mail Stop: 810 1F2
10811 WEST COLLINS AVE
LAKEWOOD CO 80215

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Larry Joe Dumont et al.	:	DECISION ON PETITION
Application No. 10/377,524	:	TO WITHDRAW
Filed: February 28, 2003	:	FROM RECORD
Attorney Docket No. **B0140-US02**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed August 17, 2010.

The request is **APPROVED**.

The request was signed by Bruce R. Winsor on behalf of himself who is associated with the above-identified application.

The attorney/agent Bruce R. Winsor is hereby withdrawn.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Bruce R. Winsor
USPTO/BPAI MDE 09D34
P.O. Box 1450
Alexandria, VA 22313-1450

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

AUG 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,283,649 :
Issued: 10/16/2007 :
Application No. 10/377,591 : NOTICE
Filed: 02/27/2003 :
Attorney Docket No. LTH-069 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 10, 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6998247
Issue Date: February 14,2006
Application No. 10377916
Filed: February 28,2003
Attorney Docket No. SENS0004

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

This is a decision on the electronic petition, filed January 11,2011 ,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 11,2011 . 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)
6,998,247	2006-02-14	10/377,916	2003-02-28	SENS0004

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

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	/MAG/	Date (YYYY-MM-DD)	2011-01-11
Name	Michael A. Glenn	Registration Number	30176

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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Otis Patent Law
1181 Wade Street
Highland Park IL 60035

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SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Suraj S. Deshmukh et al.
Application No. 10/378,129
Filed: March 3, 2003
Attorney Docket No. **C-40**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 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).

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.

A review of the file record indicates that the power of attorney to Charles G. Call has been revoked by the assignee of the application on August 23, 2010. However, a courtesy copy of this decision is being mailed to Charles G. Call. Accordingly, 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) 272-4584.

This application is being referred to Technology Center AU 3657 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.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Charles G. Call
361 Wild Coffee Lane
Marco Island, FL 34145

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)
6,986,735	2006-01-17	10/378,189	2003-03-03	

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

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.**

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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.

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In re Patent No. 6986735
Issue Date: January 17,2006
Application No. 10378189
Filed: March 3,2003
Attorney Docket No. 68603.502CON

:
: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.

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LISA B. COLLINS
PO BOX 1178
BREA CA 92822-1178

MAILED
OCT 28 2011
OFFICE OF PETITIONS

Patent No. 6,955,272	:	
Application No. 10/378,420	:	
Filed: March 3, 2003	:	ON PETITION
Issued: October 18, 2005	:	
Attorney Docket No. 128.01-P-USA	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 3, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued October 18, 2005. The last day of the grace period for paying the 3.5-year maintenance fee was October 18, 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 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) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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& BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application	:
Jeffrey Rodman et al.	:
Application No. 10/378,711	: DECISION ON APPLICATION
Filed: March 3, 20037	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **199-0124US**	:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed December 21, 2009. Applicant requests that the determination of patent term adjustment be corrected from 550 days to 942 days.

The application for patent term adjustment is **DISMISSED**.

On November 19, 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 is 550 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 396 days of PTA pursuant to 1.704(c)(7) for the filing of a response to the Notice of Non-Compliant Amendment on June 29, 2009.

In response to a Final Office Action mailed July 19, 2007, an Amendment and a Request for Continued Examination was filed. Thereafter, a Notice of Non-Compliant Amendment was mailed February 29, 2008 to which applicants argue failure to receive. Applicants point out that the Notice was returned as undeliverable and that they only learned of the Notice through their review of the Image File Wrapper. Accordingly, Applicants argue only four days from the date the Notice was mailed until the date the Notice was returned, should a loss PTA have occurred.

Applicant's arguments have been considered, but not found to be persuasive.

[1] PALM records indicate that the Issue Fee was also received on January 27, 2010.

At the outset, there is no basis in the rules for entry of a period of applicant delay from February 29, 2008, the date the Notice was mailed, to March 3, 2008, the date the Notice was returned undeliverable.

Pursuant to 37 CFR § 1.704(c), 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:

> (7) Submission of a reply having an omission (§1.135(c)), 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 reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

It is undisputed that a reply was filed on December 18, 2007 however, that reply had an omission and the omission was corrected on June 29, 2009, three hundred ninety six (396) days after the mailing of the Notice of Non-Compliant Amendment on February 29, 2008. Therefore the reduction is proper.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 550 days.

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 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).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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Joseph L. Spiegel
Heslin Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany, NY 12203

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of

Anthony M. DIMARCO
Application No. 10/379,188
Filed: March 6, 2003
Attorney Docket No. **2522-003**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted a correspondence address change directing all future correspondence for the application.

The Office will only accept correspondence address changes 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, the most current address information provided for the first named inventor. 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 Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Inquires concerning either the examination or status of the application should be directed to the Technology Center at 571-272-3600.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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JOSEPH L. SPIEGEL
HESLIN ROTHENBERG FARLEY & MESITI, PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

MAILED
JAN 18 2011
OFFICE OF PETITIONS

In re Application of
Anthony M. DIMARCO
Application No. 10/379,188
Filed: March 6, 2003
Attorney Docket No. **2522-003**

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 November 23, 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 request was signed by Joseph L. Spiegel on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **ANTHONY M. DIMARCO**
16 NOB HILL ROAD
POUGHKEEPSIE, NY 12603

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,651,507	: DECISION ON
Mishra, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/379,342	: of PATENT TERM ADJUSTMENT
Issue Date: January 26, 2010	: and
Filed: March 3, 2003	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. NAN.100.US	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH", filed May 18, 2010, requesting that the patent term adjustment indicated on the above patent be corrected from five hundred fifty-two (552) days to eight hundred sixty-seven (867)

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

Patentees are correct that the days over 36 months from the filing date of the application until the filing of the RCE was not included in the "B" delay period. The over three year period began on March 4, 2006 and ended on April 29, 2009 (the RCE was filed on April 30, 2009), and is 1153 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the "B" delay period is 1153 days.

In view thereof, the correct number of days of patent term adjustment is 867 days (1186 days of "A"' delay plus 1153 days of "B" delay, reduced by 634 days of Applicant delay and 838 days of overlap).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) 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 **eight hundred sixty-seven (867)** 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

CERTIFICATE OF CORRECTION

PATENT : 7,651,507 B2

DATED : **January 26, 2010**

INVENTOR(S) : Mishra 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 552 days.

Delete the phrase "by 552 days" and insert – by 867 days--

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	10380069
Filing Date	08-Sep-2004
First Named Inventor	Lars-Berno Fredriksson
Art Unit	2473
Examiner Name	ANDREW LAI
Attorney Docket Number	1688.747BS
Title	ARRANGEMENT IN A DISTRIBUTED CONTROL SYSTEM FOR INCREASING THE AVAILABILITY OF DATA AND/OR CONTROL COMMANDS

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 must accompany ePetition.

☒ 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.
- [x] 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	/David S. Lee/
Name	David S. Lee
Registration Number	38222

UNITED STATES 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 31,2011

In re Application of :

Lars-Berno Fredriksson

Application No : 10380069

Filed : 08-Sep-2004

Attorney Docket No : 1688.747BS

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed October 31,2011 , 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

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. 7165369
Issue Date: January 23,2007
Application No. 10380205
Filed: March 13,2003
Attorney Docket No. 4301-1004

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

This is a decision on the electronic petition, filed April 29,2011 ,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 29,2011 .
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)
7165369	2007-01-23	10380205	2003-03-13	4301-1004

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

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)	2011-04-29
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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RALEIGH NC 27627

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Patent No. 7,196,071 :
Issued: March 27, 2007
Application No. 10/380,354 :
Filed: September 5, 2003 : ON APPLICATION FOR
Atty Docket No. 00786-510US1 : PATENT TERM ADJUSTMENT
:

This is in response to the "REQUEST FOR SUSPENSION OF 37 CFR 1.705(d) UDNER 37 CFR 1.183" and " REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" both filed concurrently on March 26, 2010. Patentee petitions under 37 C.F.R. § 1.183 for suspension of the requirement under 37 C.F.R. § 1.705(d) that any request for reconsideration of the patent term adjustment be filed within two months of the issuance of the patent. Further, Patentee requests that the patent term adjustment be corrected from two hundred and eighty-six (286) days to six hundred and twenty-three (623) days. Patentees' requests this correction partly on the basis that the Office will took in excess of three years to issue this patent.

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED.**

The petition pursuant to 37 C.F.R. § 1.705(b) is **DISMISSED AS UNTIMELY FILED.**

Applicant is given **THIRTY (30) DAYS** to respond to this decision. No extension of time will be granted under 37 C.F.R. § 1.136(a).

BACKGROUND

On March 27, 2007, the above-identified application matured into U.S. Patent No. 7,196,071, with a revised patent term adjustment of 286 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37

C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on March 27, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until March 26, 2010. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. 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* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by May 27, 2007, the date two months from the date this patent issued, March 27, 2007. Rather, on March 26, 2010, more than one year after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)."

---

[1] 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.

Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final

agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

Further, 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. The USPTO determined not to accept any requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. 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 provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. § 154(b)(4) represents the outer limit on the USPTO's ability to consider a patentee's initial request for PTA determination {to conclude its PTA determination}.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's

actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and §1.323 or 35 U.S.C. 255 and §1.324 are not substitute *fora* to obtain to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 26, 2010. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to six hundred and twenty-three (623) days.

On March 27, 2007, the above-identified application matured into U.S. Patent No. 7,196,071 with a revised patent term adjustment of 286 days. The instant request for reconsideration was filed almost three years after the issuance of the patent, on March 26, 2010.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the

sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "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 and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/380,488	07/28/2003	Poul-Ernst Meier	5544-0002	8239

23117 7590 06/01/2011
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
06/01/2011	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
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JUN - 1 2011

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11th Floor
Arlington, VA 22203

In re Application of Poul-Ernst Meier Application No. 10/380,488 Filed: July 28, 2003 For: PLATE-SHAPED COVER MATERIAL	: DECISION ON THE PETITION : REGARDING REQUEST TO : WITHDRAW REQUIREMENT : FOR RESTRICTION

Applicant's petition filed under 37 CFR 1.144 on February 3, 2011, requests the supervisor to mandate that the examiner reinstate claims 16 and 31-43, withdrawn by the examiner in response to applicant's election dated September 17, 2010 which was made in response to the restriction requirement in the Office action of August 19, 2010.

The petition is **DISMISSED as MOOT**.

A review of the file record indicates that in response to an amendment by the applicant filed May 10, 2010 which added claims 20-43, the examiner required restriction between Group I, claims 1-9, 12-15, 17-30, and Group II, claims 16 and 31-43 on August 19, 2010. The applicant elected the claims of Group I with traverse on September 17, 2010. The examiner made the requirement for restriction final on December 29, 2010. The applicant then filed this instant petition on February 3, 2011.

On April 27, 2011, the examiner allowed this application. As an attachment to the allowance the examiner indicated that "The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim. Claims 16 and 31-43 are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim".

In view of the fact that there are no longer any pending claims withdrawn due to the withdrawal of the restriction requirement of August 19, 2010, the above-noted petition is Dismissed as Moot.

This application is being returned to process the allowance with all pending claims 1-9 and 12-43 allowable.

The petition of February 3, 2011 is **DISMISSED as MOOT**.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Kathy Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

snm/snm: 5/22/11

SM

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Paper No.

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JUL 29 2011

OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,855,297	:	DECISION ON REQUEST
Nakamura et al.	:	FOR
Issue Date: December 21, 2010	:	RECONSIDERATION OF
Application No. 10/380,502	:	PATENT TERM ADJUSTMENT
Filed: May 8, 2003	:	and
Atty Docket No. 349998US40 PCT	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition pursuant to 37 C.F.R. § 1.705(d), filed on January 26, 2011, 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 and seventeen (1217) 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, two hundred and three (1203) days is **GRANTED to the extent indicated herein.**

The record supports a conclusion that any patent issuing from this patent is not subject to a terminal disclaimer.

This patent issued on December 21, 2010, with a patent term adjustment of 1189 days.

The Office has determined that the patent term adjustment for the above-identified patent is **1203 days.**

First, the Office agrees that the suspension of action at the applicant's request warrants a reduction pursuant to 37 C.F.R.

§ 1.704(c)(1): a three-month suspension of action was requested on July 1, 2009. This warrants a reduction of 93 (not 92) days pursuant to 37 C.F.R. § 1.704(c)(1), as the date on which the suspension of action was filed is included in the period of delay.

Second, the Office agrees that the submission of the "LETTER TO PTO RE: PATENT TERM ADJUSTMENT" on July 13, 2010 does not warrant a 120-day reduction pursuant to 37 C.F.R. § 1.704(c)(10).

The Office has determined that the 185-day period between the commencement of the over-three year period on March 14, 2006 and the mailing of the restriction requirement on September 15, 2006, the 38-day period of examination delay from June 1, 2007 to July 9, 2007, and the 13-day period of examination delay from October 4, 2008 to October 17, 2008 each overlaps with the over three year period. As such, the period of overlap totals 236 (185 + 38 + 13) days.

It follows that the B-delay totals 396 (632 over three years - 236 overlap) days.

As such, the patent term adjustment is increased by 1203 (1051 days of examination delay plus 396 "B-delay" minus 244 days of Applicant delay) days, not 1217 days.

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 Office will *sua sponte* issue a certificate of correction. 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, 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 37 C.F.R. § 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.

This patent 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, two hundred and three (1203) 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 : 7,855,297 B2

DATED : **Dec. 21, 2010** **DRAFT**

INVENTOR(S) : Nakamura 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 1189 days

Delete the phrase "by 1189 days" and insert – by 1203 days--

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OCT 21 2011
OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,855,297	:	DECISION ON RENEWED
Nakamura et al.	:	REQUEST FOR
Issue Date: December 21, 2010	:	RECONSIDERATION OF
Application No. 10/380,502	:	PATENT TERM ADJUSTMENT
Filed: May 8, 2003	:	and
Atty Docket No. 349998US40 PCT	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.705(d), filed on August 26, 2011, 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 and sixteen (1216) days.

The renewed petition is **GRANTED**.

The record supports a conclusion that any patent issuing from this patent is not subject to a terminal disclaimer.

This patent issued on December 21, 2010, with a patent term adjustment of 1189 days. An original petition pursuant to 37 C.F.R. § 1.705(d) was filed on January 26, 2011, 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 and seventeen (1217) days. The original petition was granted via the mailing of a decision on July 29, 2011, which indicated that the Office has determined that the patent term adjustment for the above-identified patent is **1203 days**.

With this renewed petition, Patentees argue that one period of examination delay does not overlap with the over-three year period.

Patentees' argument has been considered, and has been deemed to be persuasive.

The patent 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, two hundred and sixteen (1216) days.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski 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 : 7,855,297 B2

DATED : **Dec. 21, 2010** **DRAFT**

INVENTOR(S) : Nakamura 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 1203 days

Delete the phrase "by 1203 days" and insert – by 1216 days--

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SHAPER ILER LLP
1800 WEST LOOP SOUTH
SUITE 1450
HOUSTON TX 77027

MAILED
FEB 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Williams et al.	:	DECISION ON REQUEST
Patent Number: 7,784,709	:	FOR RECONSIDERATION OF
Issue Date: 08/31/2010	:	PATENT TERM ADJUSTMENT
Application No. 10/380750	:	and
Filing or 371(c) Date: 08/18/2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 50111	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 28, 2010, 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 six hundred eighty-four (1384) 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 six hundred eighty-four (1684) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is 1402 days, not 1401 days. This period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is September 27, 2000, and the period begins March 28, 2003, and ends on January 27, 2010, the day before the RCE was filed, and is 1402 days. See, 35 U.S.C. 154(b)(1)(B)(i).

As to the period of overlap, there is no overlap of 63 days between the "A" delay period and the "B" delay period. The Office erroneously calculated an adjustment of 63 days in connection with the mailing of an Examiner's Answer in response to an Appeal Brief, filed January 29, 2007. Office records confirm that the Appeal Brief filed January 29, 2007 was non-compliant, as noted in the Notification of Non-Compliant Appeal brief, mailed April 3, 2007. Applicant's filed a compliant Appeal Brief on April 11, 2007, and this Office mailed an Examiner's Answer on July 31, 2007, within four (4) months of the filing of the compliant Appeal Brief. The adjustment of 63 days is in error and has been removed from the calculated PTA.

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.

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 one thousand six hundred eighty-five (1685) days.

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

/DLW/

Derek L. Woods
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,784,709 B1

DATED : **August 31, 2010**

INVENTOR(S) : Williams 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 1448 days.

Delete the phrase "by 1448 days" and insert – by 1685 days--

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SEP 30 2010

OFFICE OF PETITIONS

Edwards & Angell
PO Box 9169
Boston MA 02209

In re Application of Lupton et al.	:	
Application No. 10/380,884	:	Decision on Petition
Filing Date: November 3, 2003	:	
Attorney Docket No. 49624(70184)	:	

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 8, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on August 9, 2006. A Notice of Abandonment was mailed on November 27, 2006.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), the petition includes an amendment payment for a three-month extension of time. As stated in MPEP 711.03(c)(II)(A), "A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply." Therefore, the $555 payment for an extension of time has been credited back to deposit account no. 04-1105.

As to item (2), the petition includes the petition fee of $810.

As to item (3), the petition states the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

As to item (4), a terminal disclaimer is unnecessary in this case.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

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.

Technology Center Art Unit 1723 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

cc: Edwards Angell Palmer & Dodge LLP
PO Box 55874
Boston, MA 02205

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/27/11

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/380,926 Patent No. 7,754,676

CofC mailroom date 5/19/11

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

Ernest C. White, LIE

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

Comments: _____

/Manjunath Rao/ — **SPE**

1656 — **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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Patent No. : **7897152**
Ser. No. : **10/380927**
Inventor(s) : **KWAK, LARRY W.**
Issued : **03/01/2011**
Title : **VIRAL CHEMOKINE-ANTIGEN FUSION PROTEINS**
Docket No. : **4239-83274-03**

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) on the Cover Page, Item 75 is printed in accordance with the Oath of Declaration filed on 3-17-03. A Petition under Rule 1.182 is required to correct the spelling of an inventor's name.

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

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER
121 S.W. SALMON STREET
SUITE #1600
PORTLAND OR 97204-2988

OL

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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.
10/381,158	10/06/2003	Malik M Hasan	27524-82423	7162

7590 02/07/2012
Barnes & Thornburg
600 One Summit Square
Fort Wayne, IN 46802

EXAMINER
MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
02/07/2012	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.

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FEB -7 2012

Barnes & Thornburg
600 One Summit Square
Fort Wayne, IN 46802

In re Application of HASAN, MALIK	:	
Appl. No.:10/381,158	:	**RESPONSE TO PETITION**
Filed: October 6, 2003	:	**UNDER 37 CFR 1.59**
For: SYSTEM FOR COMMUNICATION OF HEALTH	:	
CARE DATA	:	
	:	

This is a decision on the petition under 37 CFR 1.59(b), filed September 24, 2009, to expunge information from the above identified application.

The petition is **GRANTED IN PART**.

Petitioner requests that the following document: 1) Proposal Letter to Mr. Tim Riley dated August 6, 1999, from Monument System, Inc., with June 30, 1999, letter to John C. Peterson from Lisa Pietrzyk (Director – PARTNERS National Health Plans of North Carolina, Inc.); 2) Health Trio Press Release dated April 18, 2000; 3) HealthTrio Connect Product Roadmap as of 29 September 2000; 4) HealthTrio Connect Product Roadmap as of 02 October 2000; 5) Declaration John C. Peterson dated September 17, 2009; and 6) Declaration Malik M. Hasan, M.D. dated September 19, 2009.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

With regards to item 2) Health Trio Press Release dated April 18, 2000, petitioner admits the press release has been made public and therefore does not meet requirement (B) of 37 CFR 1.59(b). This document will not be expunged.

As for all other items, documents 1, 3-6 have been determined to not be material to the examination of the instant application. Since they have met all requirements set forth in 37 CFR 1.59 (b) above, documents 1, 3-6 have been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Robert Morgan at (571) 272-6773.

Greg Vidovich

Greg Vidovich, Director
Patent Technology Center 3600
(571) 272-5350

gv/rm: 1/30/12

LM

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/31/2010

Applicant	: Jens Humpisch	: DECISION ON REQUEST FOR
Patent Number	: 7657472	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/381,196	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/14/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1561** 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 27, 2010

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 10381199 Patent No.: 7354541

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: _____

PHILIP TUCKER
SPE

1791
Art Unit

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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21 SEP 2010

Baker Botts L.L.P.
30 Rockefeller Plaza
44th Floor
New York NY 10112-4498

In re Application of CHAN, Siu-Wal U.S. Application No. 10/381,342 PCT No.: PCT/US2001/051078 Int. Filing Date: 23 October 2001 Priority Date: 23 October 2000 Attorney Docket No.: 070050.2270 For: THICK FILM HIGH TEMPERATURE SUPERCONDUCTING DEVICE SUPPORTING HIGH CRITICAL CURRENTS AND METHOD FOR FABRICATING SAME	:	DECISION ON PETITION UNDER 37 CFR 1.183 & 37 CFR 1.78(a)(6)

This decision is issued in response to applicants' "Petition under 37 CFR 1.183 For Suspension of Rules," filed 11 May 2010, requesting waiver of the time period under 37 CFR 1.78(a)(5) for adding a benefit claim to a provisional application. In the alternative, Petitioners request that the submission be 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 amendment filed concurrently with the instant petition.

Petition under 37 CFR 1.183

Under 37 CFR 1.183, "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in 1.17(h)."

Petitioners assert that waiver of the time period set forth in 37 CFR 1.78(a)(5)(ii) is warranted because the Official Filing Receipt mailed 04 November 2004 acknowledged applicants' claims to the prior filed provisional applications, leading applicants to believe that no further action was required to perfect the priority claims.

Petitioners' argument is not persuasive. The time period under § 1.78(a)(5)(ii) for amending the application to include a proper reference to the provisional applications without the need for a petition under § 1.78(a)(6) expired well prior to issuance of the Official Filing Receipt. Accordingly, the Filing Receipt could not have led applicants to fail to timely comply with the provisions of § 1.78(a)(4)-(5). Morever, the Filing Receipt did not identify the provisional claims under "Domestic Priority". Rather, the provisional applications were identified as "Foreign Applications" on the Filing Receipt, and published as such on the U.S. patent application publication. The indication of the provisional applications as foreign applications on the Filing Receipt should have prompted applicants to seek correction. See also MPEP 503: "A partys inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered 'unavoidable,' within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a)."

For these reasons, the petition under 37 CFR 1.183 is **DISMISSED**.

Petition under 37 CFR 1.78(a)(6)

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.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications are submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

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 nonprovisional 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)(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 above-noted, prior-filed provisional applications satisfy the conditions of 37 CFR 1.78(a)(6), the petition under 37 CFR 1.78(a)(6) is GRANTED.

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 the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant 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. 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.

Any questions concerning this decision on petition may be directed to Anthony Smith at (571) 272-3298. 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 the Examiner of Technology Center AU 1793 for appropriate action on the amendment filed May 11, 2010, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed application.

/Boris Milef/

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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Commissioner for Patents
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Alexandria, VA 22313-1450
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TAYLOR IP, P.C.
P.O. BOX 560
142 S. MAIN STREET
AVILLA IN 46710

MAILED
DEC 03 2010
OFFICE OF PETITIONS

In re Application of :
John J. Winch et al :
Application No. 10/382,276 : DECISION ON PETITION
Filed: March 5, 2003 :
Attorney Docket No. MMC0075.US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed October 17, 2007, is accepted as having been unintentionally delayed.

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) 272-3208.

This application is being referred to Technology Center AU 3689 for appropriate action by the Examiner in the normal course of business on the reply received June 2, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

MAX W. GARWOOD
PO BOX 560
AVILLA,IN 46710

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)
7062637	2006-06-13	10382595	2003-03-06	42P14034D2

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

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.**

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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P.O. Box 1450
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In re Patent No. 7062637
Issue Date: June 13,2006
Application No. 10382595
Filed: March 6,2003
Attorney Docket No. 42P14034D2

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 08/12/2010

Applicant	: Shigeo Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7665040	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/382,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1198** 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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Paper No.

ALNYLAM/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Application of :
Kreutzer :
Application No. 10/382,768 :
Filed: March 6, 2003 :
Attorney Docket No.26421-15776 US:
Title: METHOD FOR MAKING A 21 :
NUCLEOTIDE DOUBLE STRANDED RNA :
CHEMICALLY LINKED AT ONE END :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQEUST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 15, 2011. Applicants request that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from fifty (50) days to two hundred and fifty-two (252) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred and fifty-two (252)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.[1]

[1] Petition, page 3.

The Office agrees that the reduction of 215 days pursuant to 37 C.F.R. § 1.704(c)(8) that is associated with the submission of a supplemental reply on November 13, 2007 is improper: the submission warrants a reduction of 13 days, and not 215 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is two hundred and fifty-two (252) days (553 days of Office delay minus 301 days of Applicant delay).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee 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 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 regarding this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Best Available Copy

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10382768 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10382768

Application Filing Date	03/06/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	553
A Delays	553	PTO Manual Adjustment	202
B Delays	0	Applicant Delay (APPL)	503
C Delays	0	Total PTA (days)	252

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
290	01/18/2012		P028	Adjustment of PTA Calculation by PTO		13	0
289	01/18/2012		P028	Adjustment of PTA Calculation by PTO	215		0
256	10/18/2011		MN/=.	Mail Notice of Allowance			0
255	10/13/2011		OAR	Office Action Review			0
254	10/13/2011		OAR	Office Action Review			0
253	09/29/2011		OAR	Office Action Review			0
252	09/29/2011		OAR	Office Action Review			0
251	09/29/2011		IREV	Issue Revision Completed			0
250	09/29/2011		DVER	Document Verification			0
248	09/07/2011		OAR	Office Action Review			0
247	09/07/2011		OAR	Office Action Review			0
249	09/02/2011		M844	Information Disclosure Statement (IDS) Filed			0
246	09/02/2011		IDSC	Information Disclosure Statement considered			0
245	09/02/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
244	08/23/2011		OAR	Office Action Review			0
243	08/23/2011		OAR	Office Action Review			0
242	08/23/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
241	08/22/2011		N/=.	Notice of Allowance Data Verification Completed			0
240	08/21/2011		CTRT	Telephonic restriction			0
239	08/21/2011		CNTA	Allowability Notice			0
237	08/08/2011		CRFT	Sequence Forwarded to Pubs on Tape			0
234	08/05/2011		ABN9	Disposal for a RCE / CPA / R129			0
238	08/04/2011		IDSC	Information Disclosure Statement considered			0
236	08/04/2011		M844	Information Disclosure Statement (IDS) Filed			0
235	08/04/2011		RCEX	Request for Continued Examination (RCE)			0
233	08/04/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
232	08/04/2011		BRCE	Workflow - Request for RCE - Begin			0
231	07/27/2011		EIDC	Export to Initial Data Capture			0
230	07/25/2011		ELC_RVW	Electronic Review			0
229	07/25/2011		EML_NTF	Email Notification			0
228	07/25/2011	07/14/2011	MN/=.	Mail Notice of Allowance	11		199
224	07/19/2011		N/=.	Notice of Allowance Data Verification Completed			0
223	07/19/2011		DOCK	Case Docketed to Examiner in GAU			0
222	07/19/2011		IREV	Issue Revision Completed			0
221	07/19/2011		DVER	Document Verification			0
220	05/20/2011		IDSC	Information Disclosure Statement considered			0
216	05/20/2011	03/14/2011	M844	Information Disclosure Statement (IDS) Filed		67	199
215	05/20/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
227	05/18/2011		OAR	Office Action Review			0
226	05/18/2011		OAR	Office Action Review			0
225	05/18/2011		OAR	Office Action Review			0
219	05/18/2011		OAR	Office Action Review			0
218	05/18/2011		OAR	Office Action Review			0
217	05/18/2011		OAR	Office Action Review			0
214	05/18/2011		EX.A	Examiner's Amendment Communication			0
213	05/18/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
212	05/18/2011		CNTA	Allowability Notice			0
200	03/17/2011		FWDX	Date Forwarded to Examiner			0
199	03/14/2011	02/26/2011	A...	Response after Non-Final Action		16	189
198	03/14/2011		XT/G	Request for Extension of Time - Granted			0
202	03/09/2011		IDSC	Information Disclosure Statement considered			0
197	03/09/2011		RCAP	Reference capture on IDS			0
196	03/09/2011		M844	Information Disclosure Statement (IDS) Filed			0
195	03/09/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
201	12/07/2010		IDSC	Information Disclosure Statement considered			0
194	12/07/2010		RCAP	Reference capture on IDS			0
193	12/07/2010		M844	Information Disclosure Statement (IDS) Filed			0
192	12/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
191	11/29/2010		ELC_RVW	Electronic Review			0
190	11/26/2010		EML_NTF	Email Notification			0
189	11/26/2010	08/28/2010	MCTNF	Mail Non-Final Rejection	90		184
188	11/22/2010		CTNF	Non-Final Rejection			0
186	08/26/2010		FWDX	Date Forwarded to Examiner			0
183	08/26/2010		ABN9	Disposal for a RCE / CPA / R129			0
187	05/25/2010		IDSC	Information Disclosure Statement considered			0
182	05/25/2010		RCAP	Reference capture on IDS			0

181	05/25/2010		M844	Information Disclosure Statement (IDS) Filed			0
180	05/25/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
185	04/28/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
184	04/28/2010		RCEX	Request for Continued Examination (RCE)			0
179	04/28/2010		BRCE	Workflow - Request for RCE - Begin			0
178	02/05/2010		ELC_RVW	Electronic Review			0
177	02/05/2010		EML_NTF	Email Notification			0
176	02/05/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
175	02/01/2010		CTFR	Final Rejection			0
174	11/17/2009		FWDX	Date Forwarded to Examiner			0
173	11/10/2009	09/10/2009	A...	Response after Non-Final Action		61	166
172	11/10/2009		XT/G	Request for Extension of Time - Granted			0
171	08/27/2009		EML_NTR	Email Notification			0
170	08/27/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
169	08/20/2009		C.AD	Correspondence Address Change			0
168	06/10/2009		ELC_RVW	Electronic Review			0
167	06/10/2009		EML_NTF	Email Notification			0
166	06/10/2009		MCTNF	Mail Non-Final Rejection			0
165	06/04/2009		CTNF	Non-Final Rejection			0
161	05/29/2009		DOCK	Case Docketed to Examiner in GAU			0
164	04/28/2009		IDSC	Information Disclosure Statement considered			0
162	04/28/2009		EIDS.	Electronic Information Disclosure Statement			0
160	04/28/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
157	03/26/2009		FWDX	Date Forwarded to Examiner			0
155	03/26/2009		FWDX	Date Forwarded to Examiner			0
153	03/26/2009		ABN9	Disposal for a RCE / CPA / R129			0
163	03/23/2009		IDSC	Information Disclosure Statement considered			0
159	03/23/2009		RCAP	Reference capture on IDS			0
158	03/23/2009		M844	Information Disclosure Statement (IDS) Filed			0
156	03/23/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
154	03/23/2009		RCEX	Request for Continued Examination (RCE)			0
152	03/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
151	03/23/2009		BRCE	Workflow - Request for RCE - Begin			0
150	01/22/2009		ELC_RVW	Electronic Review			0
149	01/22/2009		EML_NTF	Email Notification			0
148	01/22/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
147	01/16/2009		CTFR	Final Rejection			0
145	11/06/2008		FWDX	Date Forwarded to Examiner			0
144	10/27/2008	09/25/2008	A...	Response after Non-Final Action		32	136
143	10/27/2008		XT/G	Request for Extension of Time - Granted			0
146	09/16/2008		IDSC	Information Disclosure Statement considered			0
142	09/16/2008		EIDS.	Electronic Information Disclosure Statement			0
141	09/16/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
138	06/26/2008		ELC_RVW	Electronic Review			0
137	06/25/2008		EML_NTF	Email Notification			0
136	06/25/2008		MCTNF	Mail Non-Final Rejection			0
135	05/09/2008		CTNF	Non-Final Rejection			0
111	03/26/2008		APNH	Notification of Appeal Hearing			0
114	03/25/2008		MAPDS	Appeal Dismissed - Mailed			0
113	03/25/2008		APDS	Appeal Dismissed			0
112	03/14/2008		LET.	Miscellaneous Incoming Letter			0
129	03/04/2008		FWDX	Date Forwarded to Examiner			0
128	02/27/2008		A...	Response after Non-Final Action			0
127	02/12/2008		MCPA-AMD	Mail Notice of Informal or Non-Responsive RCE Amendment			0
126	02/12/2008		CPA-AMD	RCE Amendment Informal or Non-Responsive			0
125	01/31/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
102	01/28/2008		DOCK	Case Docketed to Examiner in GAU			0
124	12/12/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
119	12/04/2007		FWDX	Date Forwarded to Examiner			0
117	12/04/2007		FWDX	Date Forwarded to Examiner			0
115	12/04/2007		ABN9	Disposal for a RCE / CPA / R129			0
133	11/13/2007		IDSC	Information Disclosure Statement considered			0
122	11/13/2007	04/12/2007	M844	Information Disclosure Statement (IDS) Filed		215	80
90	11/13/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
140	10/31/2007		IDSC	Information Disclosure Statement considered			0
139	10/31/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
121	10/31/2007		RCAP	Reference capture on IDS			0
120	10/31/2007		M844	Information Disclosure Statement (IDS) Filed			0
118	10/31/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
116	10/31/2007		RCEX	Request for Continued Examination (RCE)			0
88	10/31/2007		BRCE	Workflow - Request for RCE - Begin			0
134	10/30/2007		IDSC	Information Disclosure Statement considered			0
87	08/17/2007		AP_DK_M	Docketing Notice Mailed to Appellant			0
86	08/17/2007		APAS	Assignment of Appeal Number			0
85	07/31/2007		APWD	Appeal Awaiting BPAI Docketing			0
84	07/10/2007		MRBNE	Mail Reply Brief Noted by Examiner			0
83	07/09/2007		RBNE	Reply Brief Noted by Examiner			0
81	05/24/2007		FWDX	Date Forwarded to Examiner			0
82	04/12/2007		APOH	Request for Oral Hearing			0
80	04/12/2007		APRB	Reply Brief Filed			0
79	03/22/2007		MAPE2	Mail Supplemental Examiner's Answer			0
78	03/19/2007		APE2	2nd or Subsequent Examiner's Answer to Appeal Brief			0
77	03/12/2007		TCRD	Return of Undocketed appeal to the TC			0
76	03/12/2007		PACC	Exam. Ans. Review Complete			0
75	01/08/2007		MAPE2	Mail Supplemental Examiner's Answer			0
74	12/21/2006		APE2	2nd or Subsequent Examiner's Answer to Appeal Brief			0
73	12/05/2006		DOCK	Case Docketed to Examiner in GAU			0
72	09/22/2006		APBR	Appeal Brief Review Complete			0
71	09/22/2006		FWDX	Date Forwarded to Examiner			0
70	08/23/2006		AP.B	Appeal Brief Filed			0
68	07/27/2006	04/13/2006	MCTMS	Mail Miscellaneous Communication to Applicant	105		55
66	07/24/2006		CTMS	Miscellaneous Action with SSP			0
67	07/18/2006		LET.	Miscellaneous Incoming Letter			0
65	07/13/2006		APRD	Order Returning Undocketed Appeal to the Examiner			0
64	06/29/2006		APWD	Appeal Awaiting BPAI Docketing			0
63	06/27/2006		MRBNE	Mail Reply Brief Noted by Examiner			0
62	06/22/2006		RBNE	Reply Brief Noted by Examiner			0
61	04/11/2006		FWDX	Date Forwarded to Examiner			0
60	04/03/2006		APRB	Reply Brief Filed			0

59	03/13/2006		MAPEA	Mail Examiner's Answer			0
58	03/09/2006		APEA	Examiner's Answer to Appeal Brief			0
57	02/02/2006		DOCK	Case Docketed to Examiner in GAU			0
56	12/20/2005		FWDX	Date Forwarded to Examiner			0
55	12/13/2005		AP.B	Appeal Brief Filed			0
54	12/07/2005		APBD	Notice -- Defective Appeal Brief			0
53	11/03/2005		FWDX	Date Forwarded to Examiner			0
69	10/25/2005		N/AP	Notice of Appeal Filed			0
52.1	10/25/2005		APBI	Defective / Incomplete Appeal Brief Filed			0
52	10/25/2005		AP.B	Appeal Brief Filed			0
51	10/25/2005		N/AP	Notice of Appeal Filed			0
50	09/14/2005		MCTAV	Mail Advisory Action (PTOL - 303)			0
49	09/12/2005		CTAV	Advisory Action (PTOL-303)			0
47	09/02/2005		FWDX	Date Forwarded to Examiner			0
48	08/30/2005		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
46	08/30/2005		A.NE	Amendment after Final Rejection			0
45	07/27/2005		MCTFR	Mail Final Rejection (PTOL - 326)			0
44	07/25/2005		CTFR	Final Rejection			0
43	07/20/2005		FWDX	Date Forwarded to Examiner			0
42	07/13/2005	06/22/2005	A...	Response after Non-Final Action		21	35
41	07/01/2005		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
40	06/29/2005		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
39	06/24/2005		FWDX	Date Forwarded to Examiner			0
36	06/24/2005		FWDX	Date Forwarded to Examiner			0
38	06/22/2005		FEE.	Fee Payment Recorded (fees filed separately e.g. not with original papers, etc).			0
37	06/22/2005		DIST	Terminal Disclaimer Filed			0
35.1	06/22/2005		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
35	06/22/2005		A...	Response after Non-Final Action			0
34	05/27/2005		MCTNF	Mail Non-Final Rejection			0
33	05/26/2005		CTNF	Non-Final Rejection			0
31	05/11/2005		PA..	Change in Power of Attorney (May Include Associate POA)			0
32	05/10/2005		C.AD	Correspondence Address Change			0
30	05/10/2005		FWDX	Date Forwarded to Examiner			0
29	05/02/2005		ELC.	Response to Election / Restriction Filed			0
28	04/18/2005	05/06/2004	MCTRS	Mail Restriction Requirement	347		0.5
27	04/16/2005		CTRS	Restriction/Election Requirement			0
26	02/03/2005		DOCK	Case Docketed to Examiner in GAU			0
25	12/06/2004		LET.	Miscellaneous Incoming Letter			0
24	09/23/2004		A.PE	Preliminary Amendment			0
23	09/23/2004		WAMD	Workflow incoming amendment IFW			0
22	07/28/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	07/28/2004		DOCK	Case Docketed to Examiner in GAU			0
15.7	05/18/2004		M844	Information Disclosure Statement (IDS) Filed			0
15	05/18/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
21	01/23/2004		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
20	01/16/2004		RCAP	Reference capture on IDS			0
19.7	01/16/2004		M844	Information Disclosure Statement (IDS) Filed			0
19	01/16/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
18	01/12/2004		RCAP	Reference capture on IDS			0
17.7	01/12/2004		M844	Information Disclosure Statement (IDS) Filed			0
17	01/12/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
14	11/26/2003		OIPE	Application Dispatched from OIPE			0
13	11/26/2003		COMP	Application Is Now Complete			0
7	11/24/2003		CRFE	CRF Is Good Technically / Entered into Database			0
12	11/11/2003	08/12/2003	ADDFLFEE	Additional Application Filing Fees		91	6
11	11/11/2003		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
10	11/11/2003		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
9	11/11/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	11/11/2003		CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems			0
6	05/12/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	04/24/2003		L128	Cleared by L&R (LARS)			0
3	04/24/2003		SCAN	IFW Scan & PACR Auto Security Review			0
2	04/04/2003		SCAN	IFW Scan & PACR Auto Security Review			0
1	03/06/2003		IEXX	Initial Exam Team nn			0
0.5	03/06/2003		EFILE	Filing date			0

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SULLIVAN & WORCESTER LLP
1666 K STREET NW
WASHINGTON, DC 20006

MAILED
OCT 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Richard Finnochio	:	
Application No.: 10/382,815	:	ON PETITION
Filed: March 5, 2003	:	
Attorney Docket No.: 21204.0218US	:	

This is a decision in response to the petition, filed October 26, 2010, 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 October 22, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3714 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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SEP 09 2010

OFFICE OF PETITIONS

Medtronic
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

In re Application of William F. McKay, et. al. Application No. 10/382,844 Filed: March 7, 2003 Attorney Docket No. PC681.02	: : : : :	DECISION ON PETITIONS UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) filed June 3, 2010, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

A petition for acceptance of a claim for late 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 § 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 information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 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)(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 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 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 applications, accompanies this decision on petition.

A courtesy copy of this decision is being mailed to the address given in the present petition. Thereafter, all future correspondence regarding the above application will be mailed solely to the address of record unless otherwise instructed.

This application is being forwarded to Technology Center Art Unit 1633 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter 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

ATTACHMENT: Corrected Filing Receipt

cc: Roman Fayerberg
Fox Rothschild, LLP
100 Park Avenue – Suite 1500
New York, NY 10017

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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
10/382,844	03/07/2003	1633	1142	48170.00037/PC681.02	29	2

CONFIRMATION NO. 1653

CORRECTED FILING RECEIPT

67676
Medtronic
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

OC000000043344117

Date Mailed: 09/03/2010

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)

William F. McKay, Memphis, TN;
Scott D. Boden, Atlanta, GA;
Sangwook T. Yoon, Atlanta, GA;

Power of Attorney: The patent practitioners associated with Customer Number 29880

Domestic Priority data as claimed by applicant

This application is a CIP of 09/959,578 06/21/2002 PAT 7,045,614
and is a CIP of 09/986,625 11/09/2001 PAT 6,858,431
which is a DIV of 09/721,975 11/27/2000 PAT 6,444,803
which is a CON of 09/124,238 07/29/1998 PAT 6,300,127
which claims benefit of 60/054,219 07/30/1997
and claims benefit of 60/080,407 04/02/1998

Foreign Applications

If Required, Foreign Filing License Granted: 05/12/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/382,844**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods of inducing the expression of bone morphogenetic proteins (BMPs) and transforming growth factor-beta proteins (TGF-betas) in cells

Preliminary Class

514

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)
7139372	2006-11-21	10383374	2003-03-07	Jul-005

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

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	/William L. Botjer/	Date (YYYY-MM-DD)	2011-01-06
Name	William L. Botjer	Registration Number	27990

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. 7139372
Issue Date: November 21,2006
Application No. 10383374
Filed: March 7,2003
Attorney Docket No. JUL-005

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

This is a decision on the electronic petition, filed January 6,2011 ,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 6,2011 . 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
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/383,438	03/07/2003	Paul Czerniak	PA-086.07879(03-238)	2946

52237 7590 09/29/2011
BACHMAN & LAPOINTE, P.C.
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

EXAMINER
NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
3657	

MAIL DATE	DELIVERY MODE
09/29/2011	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

SEP 29 2011

BACHMAN & LAPOINTE, P.C.
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

In re Application of	:	
Paul Czerniak et al	:	DECISION ON PETITION
Application No. 10/383,438	:	UNDER 37 CFR §1.181
Filed: March 7, 2003	:	
For: ROTOR BALANCING SYSTEM	:	
FOR TURBOMACHINERY	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed December 15, 2008 to request entry of the drawings filed on May 13, 2008.

The petition is **GRANTED.**

The record reflects that on September 9, 2005 a non-final Office action was mailed setting forth a series of drawing objections under 37 CFR 1.83(a). On March 24, 2006, applicant filed a response to the non-final Office action and submitted new Figures 8-10 to overcome the 37 CFR 1.83(a) drawing objections. On June 9, 2006 a final Office action was mailed indicating the proposed drawing correction and proposed changes to the specification filed on March 24, 2006 were new matter and the original drawing objections under 37 CFR 1.83(a) were maintained. On September 11, 2006 applicant filed a response arguing the drawings objections. On September 28, 2006 an advisory action was issued maintaining the objections. On October 16, 2006, a RCE was filed. On November 22, 2006 a non-final Office action was issued maintaining the drawing objections. On April 26, 2007 a response was filed with additional arguments with regard to the drawing objections. On July 10, 2007 a final Office was issued maintaining the objections under 37 CFR 1.83(a). A request for pre-brief conference was filed on October 12, 2007 which resulted in the mailing of a non-final Office action on February 13, 2008. On May 19, 2008, a response was filed with additional arguments regarding the drawing objections. On September 15, 2008 a final Office action maintaining the drawing objections was issued.

Applicant argues that the features shown in Figures 8-10 are well supported by the original disclosure and therefore, do not constitute new matter. Additionally, on pages 7 and 8 of the petition, applicant has indicated where the claimed subject matter is shown in both the original disclosure as well as the proposed drawings.

MPEP 608.04(a) sets forth that matter not in the original specification, claims, or drawings is usually new matter. In the instant application pages 5-7 of the specification set forth the description of the device including the placement of the anti-rotation members on the inner side of each of the balance rings and the engaging of the anti-rotation members in the locating slot. Figures 3-7 illustrate the structure of the balance rings. When the description of the device in combination with that which is illustrated in Figures 3-7, one of ordinary skill would know the locating slot is positioned as illustrated in proposed Figure 9. Additionally, Figures 8 and 10 illustrates that which is described in the specification. Therefore, all holdings of new matter made in the September 15, 2008 final Office action are hereby **WITHDRAWN**.

Regarding whether all claim limitations are illustrated, applicant has indicated where the disputed limitations are present. Several of the limitations are illustrated in Figures 8-10. Since it has been determined that those figures do not constitute new matter, the requirement to illustrate those features are satisfied. Therefore, all objections under 37 CFR 1.83(a) are hereby **WITHDRAWN**.

The application will be forwarded to the examiner to enter the drawings of May 13, 2008, and for further action on the merits consistent with the decision herein.

Any questions regarding this petition should be directed to Robert Siconolfi at (571)272-7124.

David Talbott, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5150

dt/rs: 9/26/2011
LM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 15, 2010

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No. 10/383466 patent No.:7101471

C of C mailroom date:--05-15-11

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**.

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: _____

Roy Van King — **SPE**

1733 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 06/21/11

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 10383508 Patent No.: 10383508

CofC mailroom date: 06/13/11

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 571-270-9990

Note: **I.D.S. on 10/24/05 does not match with cocin filed on 6/13/11**

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: Correction is fine and references cited thereupon match

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

IDS form 1449 submitted 9/16/04 and considered by examiner as noted in NOA mailed 10/24/05. See attached copy.

6/21/11

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

AU 2824

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MAR 12 2012
OFFICE OF PETITIONS

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

In re Patent No. 8,062,746	:
Lawton et al.	: DECISION ON REQUEST FOR
Issue Date: November 22, 2011	: RECONSIDERATION OF
Application No. 10/383,523	: PATENT TERM ADJUSTMENT
Filed: March 10, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 03626.0080-00000	: TO ISSUE CERTIFICATE OF CORRECTION
Title: RESIN COMPATIBLE YARN BINDER AND USES THEREOF	:

This is a decision on the petition filed on January 19, 2012, 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 hundred sixty-nine (269) days.

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 169 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 2083 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the first Notice of Appeal filed September 19, 2007. The reduction of 99 days commenced September 19, 2007; the date that the Notice of Appeal was filed, and ended December 26, 2007, the day the Office action was mailed. See, 37 CFR 1.703(b)(4). A second Notice of Appeal was filed May 8, 2008. The reduction of 1000 days commenced May 8, 2008 the date the Notice of appeal

was filed and ended to February 1, 2011 date of the last decision by Board of Patent Appeals and Interference.

There are 74 days that overlap.

Patentee's delay totals 546 days.

In view thereof, the patent is entitled to an overall adjustment of 533 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 five hundred thirty-three **(533)** 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 the undersigned, Charlema Grant at (571) 272-3215.

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,062,746 B2

DATED : November 22, 2011 **DRAFT**

INVENTOR(S) : Lawton 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 546 days

Delete the phrase "by 546 days" and insert – by 533 days--

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)
7140248	2006-11-28	10383817	2003-03-06	BRUNDAGE03-02CIP

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

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	/Scott Brundage/	Date (YYYY-MM-DD)	2011-05-03
Name	Scott Brundage		

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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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.

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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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7140248
Issue Date: November 28,2006
Application No. 10383817
Filed: March 6,2003
Attorney Docket No. BRUNDA03-02CIP

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

This is a decision on the electronic petition, filed May 3,2011 ,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 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.

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)
7,010,336	2006-03-07	10/384,023	2003-03-07	SENS0012

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

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	/MAG/	Date (YYYY-MM-DD)	2011-01-11
Name	Michael A. Glenn	Registration Number	30176

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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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. 7010336
Issue Date: March 7,2006
Application No. 10384023
Filed: March 7,2003
Attorney Docket No. SENS0012

:

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

:

This is a decision on the electronic petition, filed January 11,2011 ,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 11,2011 .
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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HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

In re Application of		JAN 3 1 2011
HILTON, RICHARD L. et al.	:	
Application No.: 10/384,053	:	DECISION ON
Filing or 371(c) Date: March 6, 2003	:	PETITION
Attorney Docket Number: 200208167-1	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on August 17, 2006.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance mailed February 24, 2006, which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on June 26, 2006.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on March 10, 2006. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. The Office acknowledges Deposit Account Number on the form there authorization to charge the required fees.

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

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United States Patent and Trademark Office
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Lando & Anastasi,LLP
A2038
One Main Street, Suite 1100
Cambridge, MA 02142

MAILED
NOV 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,473,525	:
Kreutzer et al.	: DECISION UPON REMAND AND
Issue Date: January 6, 2009	: RECONSIDERATION OF
Application No. 10/384,260	: PATENT TERM ADJUSTMENT
Filed: March 7, 2003	: AND NOTICE OF INTENT
Attorney Docket A2038-705430	: TO ISSUE CERTIFICATE OF
Title: Compositions and Methods	: CORRECTION
for Inhibiting Expression of	:
Anti-Apoptotic Genes	

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 three hundred and thirty-four (1334) 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 three hundred and thirty-four (1334) 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 : 7,473,525

DATED : **January 6, 2009** **DRAFT**

INVENTOR(S) : Kreutzer 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 768 days

Delete the phrase "by 768 days" and insert – by 1334 days--

Day : Tuesday
Date: 11/30/2010

PALM INTRANET

Time: 10:34:20

PTA Calculations for Application: 10/384260			
Application Filing Date:	03/07/2003	PTO Delay (PTO):	1036
Issue Date of Patent:	01/06/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	268
Post-Issue Petitions:	0	Total PTA (days):	1334
PTO Delay Adjustment:	566		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
114	11/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	566		
104.5	12/17/2008	PTA 36 MONTHS	231		
104	01/06/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
102	12/09/2008	EXPORT TO FINAL DATA CAPTURE			
101	12/08/2008	DISPATCH TO FDC			
100	12/05/2008	EMAIL NOTIFICATION			
99	12/03/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
98	12/05/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
97	12/02/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
96	11/17/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	09/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
94	11/21/2008	ISSUE FEE PAYMENT VERIFIED			
93	11/21/2008	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
92	11/21/2008	ISSUE FEE PAYMENT RECEIVED			
91	11/17/2008	REFERENCE CAPTURE ON IDS			
90	11/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		19	98
89	11/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	10/02/2008	FINISHED INITIAL DATA CAPTURE			
87	09/23/2008	EMAIL NOTIFICATION			

86	09/23/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
85	09/18/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
84	09/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	86
83	09/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	09/04/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
81	08/26/2008	EXPORT TO INITIAL DATA CAPTURE			
78	08/25/2008	MAIL NOTICE OF ALLOWANCE			
77	08/20/2008	ISSUE REVISION COMPLETED			
76	08/20/2008	DOCUMENT VERIFICATION			
75	08/20/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
74	08/20/2008	CASE DOCKETED TO EXAMINER IN GAU			
73	08/18/2008	NOTICE OF ALLOWABILITY			
72	06/26/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	06/26/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		9	65
68	06/17/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
67	06/17/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
66	07/14/2008	DATE FORWARDED TO EXAMINER			
65	06/17/2008	AMENDMENT AFTER FINAL REJECTION			
64	06/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	03/17/2008	MAIL FINAL REJECTION (PTOL - 326)			
62	03/03/2008	FINAL REJECTION			
61	04/06/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	08/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	01/30/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
58	01/29/2008	CORRESPONDENCE ADDRESS CHANGE			
57	12/21/2007	DATE FORWARDED TO EXAMINER			
56	12/19/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
		CHANGE IN POWER OF ATTORNEY (MAY			

55	12/04/2007	INCLUDE ASSOCIATE POA)			
54	11/19/2007	MAIL RESTRICTION REQUIREMENT	248		51
53	11/15/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
52	09/24/2007	DATE FORWARDED TO EXAMINER			
51	11/16/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
50.7	04/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		141	51
50	04/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	01/17/2007	MAIL OF WITHDRAW OF INFORMAL AMENDMENT NOTICE			
48	01/16/2007	WITHDRAW OF INFORMAL AMENDMENT NOTICE			
47	01/09/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
46	11/20/2006	DATE FORWARDED TO EXAMINER			
45.1	11/16/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
45	11/16/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
44	11/16/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	10/13/2006	MAIL RESTRICTION REQUIREMENT			
42	10/05/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
41	08/11/2006	MISCELLANEOUS INCOMING LETTER			
40	08/09/2006	REFERENCE CAPTURE ON IDS			
39.7	08/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	37
39	08/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/11/2006	DATE FORWARDED TO EXAMINER			
37	08/09/2006	RESPONSE AFTER NON-FINAL ACTION		91	35
36	08/09/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	02/10/2006	MAIL NON-FINAL REJECTION			
34	02/06/2006	NON-FINAL REJECTION			
33	05/18/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	01/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/18/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	01/04/2006	DATE FORWARDED TO EXAMINER			

29	12/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
28	11/15/2005	MAIL RESTRICTION REQUIREMENT	557		-1
27	11/14/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
26	05/11/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
25	05/10/2005	CORRESPONDENCE ADDRESS CHANGE			
24	11/18/2004	MISCELLANEOUS INCOMING LETTER			
23.7	05/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	05/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/03/2004	REFERENCE CAPTURE ON IDS			
21	05/13/2004	REFERENCE CAPTURE ON IDS			
20	04/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19.7	01/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	01/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18.7	12/18/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	12/18/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/30/2003	NEW OR ADDITIONAL DRAWING FILED			
16	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	08/28/2003	APPLICATION RETURN FROM OIPE			
14	08/28/2003	APPLICATION IS NOW COMPLETE			
13	08/28/2003	APPLICATION RETURN TO OIPE			
12	08/27/2003	APPLICATION DISPATCHED FROM OIPE			
11	08/27/2003	APPLICATION IS NOW COMPLETE			
10	07/30/2003	ADDITIONAL APPLICATION FILING FEES			
9	07/30/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	07/30/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	07/30/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	07/30/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			

5	08/08/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	05/23/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/25/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/03/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/07/2003	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.

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

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of :
Makoto Maki et al. :
Patent No. 7,653,404 :
Issued: January 26, 2010 :
Application No. 10/384,403 :
Filed: March 6, 2003 :
Attorney Docket No. **MES1P079** :

NOTICE

This is a notice regarding your request filed September 12, 2011, 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 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) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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MALIN HALEY DIMAGGIO BOWEN & LHOTA, P.A.
1936 S ANDREWS AVENUE
FORT LAUDERDALE FL 33316

MAILED
OCT 12 2011
OFFICE OF PETITIONS

In re Patent No. 6,876,301 :
Issue Date: April 5, 2005 :
Application No. 10/384,480 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. 10473.3803 :

This is a decision on the petition under 37 CFR 1.378(b), filed September 15, 2011 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).

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).

Any petition under 37 CFR 1.378 must be signed by an attorney or agent registered to practice before the U.S. Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. A person or organization whose only responsibility insofar as the patent is concerned is the payment of a maintenance fee is not a party in interest for purposes of 37 CFR 1.378. If the petition is signed by a person not registered to practice before the Office, the petition must indicate that the person signing the petition is the patentee, assignee, or other party in interest. The petition has only been executed by patentee Coleman Ray. The signature of patentee Cruise P. Berrio is required. To the extent petitioner is signing the petition as a representative of Assignee, a statement under 37 CFR 3.73(b) must be submitted.

The merits of petitioner's argument to establish unavoidable delay have **not** been considered.

The address on the petition differs from the correspondence address of record. If appropriate petitioner should submit a change of correspondence address. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Coleman P. Ray
P.O. Box 271
Okeechobee, FL 34973

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MALIN HALEY DIMAGGIO BOWEN & LHOTA, P.A.
1936 S ANDREWS AVENUE
FORT LAUDERDALE FL 33316

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Patent No. 6,876,301 :
Issue Date: April 5, 2005 :
Application No. 10/384,480 : ON PETITION
Filed: March 7, 2003 :
Attorney Docket No. 10473.3803 :

This is a decision on the renewed petition under 37 CFR 1.378(b), filed December 12, 2011 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).

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).

Any petition under 37 CFR 1.378 must be signed by an attorney or agent registered to practice before the U.S. Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. A person or organization whose only responsibility insofar as the patent is concerned is the payment of a maintenance fee is not a party in interest for purposes of 37 CFR 1.378. If the petition is signed by a person not registered to practice before the Office, the petition must indicate that the person signing the petition is the patentee, assignee, or other party in interest. The petition has only been executed by patentee Coleman Ray. The signature of patentee Cruise P. Berrio is required. To the extent petitioner is signing the petition as a representative of Assignee, a statement under 37 CFR 3.73(b) must be submitted.

Although patentee Berrio has signed the declaration, petitioner has failed to submit a signed unavoidable statement (page 4), which is required.

The merits of petitioner's argument to establish unavoidable delay have **not** been considered.

The address on the petition differs from the correspondence address of record. If appropriate petitioner should submit a change of correspondence address. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

By Mail: Mail Stop PETITION
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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) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Cruise P. Berrio
5825 w 25 Ct # 207
Hialeah, Florida 33016

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SALTAMAR INNOVATIONS
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BARRINGTON RI 02806

MAILED
JUN 13 2011
OFFICE OF PETITIONS

In re Patent No. 7,071,970	:	
Issue Date: July 4, 2006	:	
Application No. 10/385,119	:	NOTICE
Filed: March 10, 2003	:	
Attorney Docket No. 0238US-TSI	:	

This is a notice regarding your request, April 27, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
AUG 12 2011
OFFICE OF PETITIONS

CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
David Lawrence, et al.	:	
Application No. 10/385,557	:	DECISION ON PETITION
Filed: March 3, 2003	:	
Attorney Docket No. 17209-433CP1	:	

This is a decision on the petition, filed July 8, 2011, 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**.

The Notice of abandonment mailed June 24, 2011 held application to be abandoned as a result of petitioner's failure to timely file an appeal brief after the filing of the Notice of Appeal on December 8, 2010. An Appeal Brief or another appropriate response was due on or before February 8, 2011, or, on or before July 8, 2011, with a five (5)-month extension of time.

Petitioner states that the Notice of Abandonment mailed June 24, 2011 is in error because the petitioner still had time until July 9, 2011 to file an appeal brief or another appropriate response with a purchase of a five (5) month extension of time under 37 CFR § 1.136(a).

The file record indicates that a timely response was received on July 8, 2011 which included a Request for Continued Examination (RCE), a submission under 37 CFR 1.114, along with the fee for a five (5) month extension of time.

Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 3694 for appropriate action in the normal course of business on the RCE and the amendment filed therewith.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS TX 75202

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Seyed-Ali Hajimiri, et al.	:	
Application No. 10/385,777	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 121744-0043 (B77357)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 22, 2005, 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 23, 2005. The Notice of Abandonment was mailed October 7, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/208,833.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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BIB DATA SHEET

CONFIRMATION NO. 5127

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/385,900	03/10/2003 **RULE**	436	1641	061818-02-5010US

APPLICANTS
Kevin E. Healy, Moraga, CA;
Ranee A. Stile, Highland Park, IL;

**** CONTINUING DATA ***************************
This appln claims benefit of 60/362,621 03/08/2002

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **
05/29/2003

Foreign Priority claimed	☐ Yes ☑ No	☐ Met after Allowance	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119(a-d) conditions met	☐ Yes ☐ No		CA	8	21	2
Verified and Acknowledged	/NELSON C YANG/ Examiner's Signature	Initials				

ADDRESS
MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco, CA 94105
UNITED STATES

TITLE
Tunable, semi-interpenetrating polymer networks (sIPNS) for medicine and biotechnology

FILING FEE RECEIVED		
799	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

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INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Lovell et al.	:	
Application No. 10/385,924	:	DECISION ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. 100405-06490	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 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 final Office action mailed, December 2, 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 3, 2010. A Notice of Abandonment was mailed June 9, 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 $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, 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. Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. 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. 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 1797 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

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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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NOV 08 2010
OFFICE OF PETITIONS

In re Application of :
Law et al. :
Application Number: 10/386,245 : ON APPLICATION FOR
Filing Date: 03/11/2003 : PATENT TERM ADJUSTMENT
Attorney Docket Number: :
13745US02 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJSUTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705), filed on August 13, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased by 300 days from 427 days to 727 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The request is **DISMISSED**.

To the extent 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, 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].

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

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).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **DISMISSED.**

On May 14, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 427 days (553 days of PTO delay and 126 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants assert that the two (2) day period of reduction for applicant delay in connection with the filing of a response on August 21, 2006, three months and two (2) days after the Office action mailed on May 19, 2006, should be removed, because the response was timely filed on Monday, August 21, 2006.

Applicants' argument has been considered, but is not persuasive.

Calculation of applicants' delay is based on the date of receipt of the response in the Office. 35 U.S.C. § 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 427 days.

The application is being forwarded to the Office of Data Management for issuance of a 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

[2] PALM Records indicate that the issue fee was paid on August 13, 2010.

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).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

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NOV 17 2010
OFFICE OF PETITIONS

In re Patent of Patrick Law et al.	:	DECISION ON REQUEST
Patent No. 7,636,125	:	FOR RECONSIDERATION OF
Issue Date: December 22, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/386,312	:	AND NOTICE OF INTENT TO
Filing Date: March 11, 2008	:	ISSUE CERTIFICATE OF
Attorney Docket No. 13746US02	:	CORRECTION

This is a decision on the petition filed June 4, 2010, requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by six hundred forty-eight (648) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

Facts

The Office issued a non-final Office action on January 29, 2007. A reply was filed April 30, 2007, which was three months and one day after the date the Office issued the January 29, 2007 Office action. The Office entered a one-day reduction under 37 C.F.R. § 1.704(b) based on delay in the filing of a reply to the January 29, 2007 Office action.

The Office issued a final Office action on November 23, 2007. A reply was filed February 25, 2008, which was three months and two days after the date the Office issued the November 23, 2007 Office action. The Office entered a two-day reduction under 37 C.F.R. § 1.704(b) based on delay in the filing of a reply to the November 23, 2007 Office action.

The Office issued a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on August 5, 2009, advising Patentees of a patent term adjustment to date of 444 days. The 444-day patent term adjustment included the two reductions identified above. If Patentees disagreed with either of the reductions, Patentees could have filed a petition under 37 C.F.R. § 1.705(b) on or before the date the issue fee was filed. However, Patentees did not file a request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b).

The patent issued December 22, 2009. The patent set forth a patent term adjustment of 444 days.

Patentees filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth* ("*Wyeth* Request") on April 29, 2010.

The Office issued a decision in response to the *Wyeth* Request on May 4, 2010. The decision stated a certificate of correction setting forth a patent term adjustment of 644 days would be issued unless a request for reconsideration of the decision was filed within the longer of longer of one month or 30 days from the issuance date of this decision.

The instant "Request for Recalculation of USPTO Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed June 4, 2010.

The instant petition asserts the patent term adjustment should be 648 days instead of 644 days fro the following two reasons:

1. The Office should not have entered a 1-day reduction for Patentees' delay in filing a reply to the January 29, 2007 Office action; and
2. The Office should not have entered a 2-day reduction for Patentees' delay in filing a reply to the November 23, 2007 Office action.

The Office notes the difference between 648 days and 644 days is four days. However, the actual body of the petition only alleges the Office improperly reduced the patent term adjustment by three days. Therefore, the Office is assuming Patentees are actually seeking a patent term adjustment of 647 days.

Patentees' appear to misunderstand the nature of the *Wyeth* Request filed April 29, 2010. A *Wyeth* Request only allows a party to challenge the number of days by which the Office reduced the patent term adjustment for overlap between delay under 37 C.F.R. § 1.703(a) ("A Delay") and delay under 37 C.F.R. § 1.703(b) ("B Delay). The first page of the *Wyeth* Request form submitted by Patentees explicitly states, with emphasis added, "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)." The first sentence on the second page of the *Wyeth* Form submitted by Patentees is in bold and states, "This form is only [to be used] if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A)."

Patentees are not asserting the number of days by which the Office reduced the patent term adjustment for overlap between A Delay and B Delay when calculating the patent term adjustment set forth in the May 4, 2010 decision is incorrect. Instead, Patentees are making arguments that should have been raised in a petition under 37 C.F.R. § 1.705(b). Therefore, the arguments are dismissed as untimely.

In view of the prior discussion, a certificate of correction will be issued facts above, the patent term adjustment indicating that the term of the above-identified patent is extended or adjusted by six hundred forty-four (644) days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred forty-four (644)** 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

Attached: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,636,125 B2
APPLICATION NO.	:	10/386,312
DATED	:	December 22, 2009
INVENTOR(S)	:	Patrick Law 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 444 days.

Delete the phrase "by 444 days" and insert -- by 644 days--

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

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,368,234	: DECISION ON APPLICATION FOR
Issued: May 6, 2008	: PATENT TERM ADJUSTMENT and
Application No. 10/386,354	: NOTICE OF INTENT TO ISSUE
Filed: March 11, 2003	: CERTIFICATE OF CORRECTION
Dkt. No.: 3715.0051-02	:

This is a decision on the request for reconsideration of patent under 37 CFR 1.183 and the petition under 37 CFR 1.705(d) filed October 15, 2009.

DECISION UNDER 37 CFR 1.183

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of July 20, 2009 has been reconsidered

DECISION UNDER 37 CFR 1.705(d)

This petition is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,368,234 was previously dismissed as untimely. 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 sec. 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. sec. 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. The USPTO determined not to accept any requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant.

The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. 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 provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

Accordingly, a decision on the merits of the request for reconsideration of patent term adjustment follows herewith.

Patentees herein request a patent term adjustment of 366 days. Patentees' calculation is based on 483 days of "A" delay plus 250 days of "B" delay less an applicant delay of 367 days.

Review of the record reveals that the period of "A" delay is 515 days (483 days under 37 CFR 1.702(a)(1) + 32 days under 37 CFR 1.702(a)(2)). It is noted that patentees' submission fails to acknowledge the adjustment of 32 days accorded in connection with the mailing of the non-final Office action on April 17, 2007.

The period of "B" delay is 249 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 March 12, 2006 and ends on November 15, 2006, the day before the RCE was filed, and not November 16, 2006, 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 249 days, not 250 days.

The period of applicant delay is 367 days.

Accordingly, the correct patent term adjustment is 397 days (515 days + 249 days – 367 days), not 366 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.

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 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 397 days.

The Office acknowledges the previous submission of petition fees. 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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,368,234

DATED : **May 6, 2008** **DRAFT**

INVENTOR(S) : Bensimon, 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 271 days

Delete the phrase "by 271 days" and insert – by 397 days--

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SAN DIEGO, CA 92130-2040

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SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Jian-Guo Geng	:	
Application No. 10/386,386	:	DECISION ON PETITION
Filed: March 10, 2003	:	TO WITHDRAW FROM
Attorney Docket No. 17257/015001	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed July 23, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that any previous power of attorney was revoked by the assignee of the above application on July 30, 2010. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is moot.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2875 MICHELLE DRIVE
SUITE 110
IRVINE CA 92606

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,157,158	:	
Issued: January 2, 2007	:	
Application No. 10/386,728	:	ON PETITION
Filed: March 11, 2003	:	
Attorney Docket No. L2:00515	:	

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 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

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SAN FRANCISCO CA 94111-3834

MAILED

AUG 30 2010

OFFICE OF PETITIONS

DECISION ON PETITION

In re Patent No. 7,310,729
Issue Date: December 18, 2007
Application No. 10/386,766
Filed: March 12, 2003
Attorney Docket No. **040152-001800US**

This is a decision on the petition August 6, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent that is being considered under 37 CFR 1.182.

The petition under 37 CFR 1.182 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.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-4584. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)756-1556.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, Randolph Square Building, 9th Floor, 09/D30-B
FAX No. (571) 270-9753

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P.O. BOX 160727
AUSTIN TX 78716-0727

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Perlow et al.	:	
Application No. 10/386,795	:	DECISION GRANTING PETITION
Filed: March 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BP2547	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 18, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth in the amendment filed concurrently with the instant petition.

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 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 nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application 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); (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. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), 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)(3) should not be construed as meaning that the instant application is entitled to the benefit 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. § 120 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 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 nonprovisional application, accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 2611 for appropriate action on the amendment filed August 18, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/386,795	03/12/2003	2611	1122	BP2547	36	4

CONFIRMATION NO. 7313

CORRECTED FILING RECEIPT

51472
GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

OC000000043794035

Date Mailed: 10/01/2010

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)

Randall Perlow, Aliso Viejo, CA;
Nabil R. Yousef, Foothill Ranch, CA;
Charles Alan Brooks, Laguna Beach, CA;
Tianmin Liu, Laguna Niguel, CA;

Power of Attorney: The patent practitioners associated with Customer Number 51472

Domestic Priority data as claimed by applicant

This application is a CIP of 10/109,496 03/28/2002 PAT 7,224,726

Foreign Applications

If Required, Foreign Filing License Granted: 05/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/386,795**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sparse channel equalization

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JAN 05 2012
OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re
Parsadayan, et al.
Application No. 10/386,968
Filed: March 11, 2003
Patent No. 7,324,014
Issued: January 29, 2008
Attorney Docket No. 5569/79691

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 9, 2011.

The fee deficiency submission under 37 CFR 1.28 of $640 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

Second Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/4/2011

TO SPE OF : ART UNIT 2477

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/387456 Patent No.: 7907544 B2

CofC mailroom date: 4/29/2011

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:

Inserting - - its - - after "all" in column 5, line 52 (claim 3) is denied as the proposed change does not correct the claim. Applicant Representative Mike Czarnecki Reg. No. 61257 was contacted and it was agreed that the proposed change does not correct the present claim 3.

/Gregory B Sefcheck/
Primary Examiner, Art Unit 2477

/Chirag Shah/
SPE

2477
Art Unit

Second Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/4/2011

TO SPE OF : ART UNIT 2477

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/387456 Patent No.: 7907544 B2

CofC mailroom date: 4/29/2011

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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:

Inserting - - its - - after "all" in column 5, line 52 (claim 3) is denied as the proposed change does not correct the claim. Applicant Representative Mike Czarnecki Reg. No. 61257 was contacted and it was agreed that the proposed change does not correct the present claim 3.

/Gregory B Sefcheck/
Primary Examiner, Art Unit 2477

/Chirag Shah/
SPE

2477
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)
6660884	2003-12-09	10387460	2003-03-14	

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

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	/Kathleen D. Rigaut/	Date (YYYY-MM-DD)	2012-01-20
Name	Kathleen D. Rigaut, Ph.D., J.D.	Registration Number	43047

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. 6660884
Issue Date: December 9,2003
Application No. 10387460
Filed: March 14,2003
Attorney Docket No. 25338

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

This is a decision on the electronic petition, filed January 20,2012 ,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 January 20,2012 . 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 : 8/10/10

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/387648 Patent No.: 7274510 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 – 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: The line numbers regarding corrections identified in Colum 8, lines 25-59 are inconsistent w/ the actual lines of the Patent. The correct & approved changes are as follows: Col. 8, line 25, should be line 24; line 26, should be line 25; line 47, should be line 44; line 48, should be line 45; line 49, should be line 45; line 53, should be line 50; & line 59, should be line 53.

Stephone B. Allen 8/12
Supervisory Patent Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE JACKSON PATENT GROUP
1500 FOREST AVENUE, SUITE 212
RICHMOND VA 23229

MAILED
JAN 14 2011
OFFICE OF PETITIONS

In re Patent No. 6,714,346	:	
Issue Date: March 30, 2004	:	
Application No. 10/387,922	:	ON PETITION
Filed: March 13, 2003	:	
Attorney Docket No. 1625(SURA)	:	

This is a decision on the petition filed November 23, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Jefferson Science Associates, LLC."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that a new assignment from Southeastern Universities Research Association Inc., to Jefferson Science Associates, LLC was recorded on June 16, 2006, which is **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

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

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

MAILED

FEB 02 2012

OFFICE OF PETITIONS

In re Application of	:	
Changsoon Kim, et al.	:	
Application No. 10/387,925	:	DECISION GRANTING PETITION
Filed: September 17, 2010	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P19893D	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 1, 2012, 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 January 20, 2012 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 2893 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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

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

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

MAILED
JAN 17 2012
OFFICE OF PETITIONS

In re Patent No. 8,050,970
Issued: November 1, 2011
Application No. 10/388,166
Filed: March 14, 2003
Attorney Docket No. 16113-0636001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on January 3, 2012, 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 1462 to 1593 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On November 1, 2011, the above-identified application matured into U.S. Patent No. 8,050,970, with a revised patent term adjustment of 1462 days. On January 3, 2012, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1593. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 24, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 131 day period from June 24, 2011 (the mailing date of the Notice of Allowance) until November 1, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 131 days and be increased from 1010 to 1141 days. Patentee concludes that the correct patent term adjustment is 1593 days (the sum of 1307 days of "A delay" and 1141 days of "B delay" minus 638 days of overlap and minus 217 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(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 —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

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);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 1307 days based on the application having been filed under 35 U.S.C.

111(a) on March 14, 2003 and the patent not having issued as of the day after the three year date, March 14, 2007, and requests for continued examination under 132(b) having been filed on December 19, 2008, October 6, 2009, and May 19, 2010. In other words, the 131-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered 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. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment 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 number of days 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.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that

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[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "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," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of

the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he 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"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, 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"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice

of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C.

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, requests for continued examination were filed on December 19, 2008, October 6, 2009, and May 19, 2010, and the patent issued by virtue of that request on November 1, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on December 19, 2008 and ending on November 1, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1462 days indicated on the patent is correct.

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 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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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED
OCT 14 2011
OFFICE OF PETITIONS

Applicant: Comstock et al.
Appl. No.: 10/388,390
Filing Date: March 13, 2003
Title: METHOD FOR OVEREXPRESSION OF ZWITTERIONIC POLYSACCHARIDES
Attorney Docket No.: B00801.70279.US
Pub. No.: US 2003/0219413 A1
Pub. Date: November 27, 2003

This is a decision on the petition under 37 CFR 1.181, which request for reversal of a decision dismissing a timely filed request for corrected publication received on June 15, 2004.

The patent issued on January 23, 2007.

The request is DISMISSED as moot.

Since the application has been issued as a patent, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OCT 15 2010

OFFICE OF PETITIONS

Kai-Yuan Tien
PO Box 82-144
Taipei TAIWAN

In re Application of	:	
TIEN, KAI-YUAN	:	
Application No. 10/388,435	:	DECISION ON PETITION
Filed: 03/17/2003	:	
Attorney Docket No. FP9392	:	

This is a decision on the petition under 37 CFR 1.181, filed on December 31, 2004, to withdraw the holding of abandonment.

On April 1, 2004, the Office mailed a non-final Office action, which set a three-month shortened statutory period to reply. In the absence of a timely filed reply, the application was held abandoned on July 2, 2004. A Notice of Abandonment was mailed on November 2, 2004.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the non-final Office action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the non-final Office action and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing

outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the docket records where the non-received Office action would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Office action was not received.

As applicant made the required showing, the petition to withdraw the holding of abandonment is granted.

Technology Center Art Unit 2876 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the non-final Office action. The three month shortened statutory time period for responding to the non-final Office action will be set to run from the re-mailing date of the non-final Office action.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 6934266
Issue Date: August 23,2005
Application No. 10389176
Filed: March 13,2003
Attorney Docket No. 42P15409C

:
: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
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)
6934266	2005-08-23	10389176	2003-03-13	42P15409C

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

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.**

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

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

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of
Klaus Pfizenmaier, et. al.
Application No. 10/389,223
Filed: March 14, 2003
Attorney Docket No. 1708.002US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 24. 2011, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Karen Himmel Ohlfest appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of March 24, 2010, by the Board of Patent Appeals and Interferences. A Notice of Abandonment was issued on June 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) along with the $810 fee and required submission under 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1]. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1643 for processing of the RCE.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] If petitioner discovers 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 immediately.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Robert D. Buyan
Stout, Uxa, Buyan & Mullins, LLP
Suite 300
4 Venture
Irvine CA 92618

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Karageozian, et al.	:	
Application No. 10/389,226	:	DECISION ON PETITION
Filed: March 14, 2003	:	
Attorney Docket No. VITRT-014A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2010, to revive the above-identified design application.

The petition is **GRANTED**

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed December 24, 2009, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 25, 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 $810.00, and (3) a proper statement of unintentional delay. Accordingly, the failure to respond to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed December 24, 2009, 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, practitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, practitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1627 for further processing in accordance with this decision on petition.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: WEIHONG HSING
PANITCH SCHWARZE
BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
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
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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3A59
NISKAYUNA NY 12309

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Srinivas Bollapragada et al.	:	
Application No. 10/389,303	:	DECISION ON PETITION
Filed: March 14, 2003	:	
Attorney Docket No. 120752-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, May 27, 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 August 28, 2010. A Notice of Abandonment was mailed on December 8, 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 RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE 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 2421 for appropriate action by the Examiner in the normal course of business on the RCE December 22, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
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)
7,185,469	2007-03-06	10389497	2003-03-14	

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

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	/James H. Rombke, II/	Date (YYYY-MM-DD)	2012-02-02
Name	James H. Rombke, II		

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. 7185469
Issue Date: March 6,2007
Application No. 10389497
Filed: March 14,2003
Attorney Docket No. AAP-001PAT

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

This is a decision on the electronic petition, filed February 2,2012 ,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 2,2012 . 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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Alexandria, VA 22313-1450
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JUNG H. (JOHN) KIM
3956 ROSEBAY CT
FAIRFAX, VA 22033

MAILED

SEP 13 2010

OFFICE OF PETITIONS

Patent No. 6,964,570	:	ON PETITION
Application No. 10/389,585	:	
Filed: March 17, 2003	:	
Issued: November 15, 2005	:	
Attorney Docket No. SGHIM	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 21, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued November 15, 2005. The last day of the grace period for paying the 3.5-year maintenance fee was November 15, 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 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) 272-3206.

Liana Walsh
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)
7076562	2006-07-11	10389783	2003-03-17	Jul-003

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

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	/William L. Botjer/	Date (YYYY-MM-DD)	2011-01-06
Name	William L. Botjer	Registration Number	27990

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
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In re Patent No. 7076562
Issue Date: July 11,2006
Application No. 10389783
Filed: March 17,2003
Attorney Docket No. JUL-003

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

This is a decision on the electronic petition, filed January 6,2011 ,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 6,2011 . 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
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DINSMORE & SHOHL LLP
FIFTH THIRD CENTER, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Patent No. 7,166,249
Issue Date: January 23, 2007
Application No. 10/389,831
Filed: March 17, 2003
Attorney Docket No. STD 1318 VA

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 17, 2011 and supplemented April 19, 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**.

It is noted that the timely submitted 3.5 year maintenance fee submitted on July 23, 2010 was inadvertently refunded. Petitioner has resubmitted the fees at the request of the Office.

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 petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Richard J. McNeely 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant

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

In re Patent No. 6929073
Issue Date: August 16,2005
Application No. 10390104
Filed: March 17,2003
Attorney Docket No. 1056

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

This is a decision on the electronic petition, filed October 20,2010 ,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 20,2010 .
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)
6929073	2005-08-16	10390104	2003-03-17	1056

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

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	/ANDREW W LUDY/	Date (YYYY-MM-DD)	2010-10-20
Name	ANDREW W LUDY	Registration Number	35259

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

HOGAN LOVELLS US LLP
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Patent No. 6,844,992	:	
Issued: January 18, 2005	:	
Application No. 10/390,176	:	ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. 28276.0009	:	

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 Susan Chen 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.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Susan Chen
1812 Flower Ave
Duarte, CA 91010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN LOVELLS US LLP
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Patent No. 6,844,992	:	
Issued: January 18, 2005	:	
Application No. 10/390,176	:	DECISION ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. 28276.0009	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed April 7, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 19, 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.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kevin G. Shaw
555 Thirteenth Street, N.W.
Washington, D.C. 20004

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)
7032157	2006-04-18	10390317	2003-03-17	

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

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

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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. 7032157
Issue Date: April 18,2006
Application No. 10390317
Filed: March 17,2003
Attorney Docket No. HDD02-SF02

:
: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

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 11 2011
OFFICE OF PETITIONS

In re Patent No. 7,098,028 :
Issue Date: August 29, 2006 :
Application No. 10/390,472 : NOTICE
Filed: March 17, 2003 :
Patentee(s): Todd Holmes, et. al. :

This is a Notice regarding your communication under 37 CFR 1.28(c) filed on January 10, 2011, for acceptance of a fee deficiency submission.

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**[1]. Therefore, status as a small entity has been removed and any future fee submitted must be paid at the large entity rate.

Since the address given in the present request differs from the correspondence address of record, a courtesy copy of this Notice is being mailed to the address given in the request. Thereafter, all future communications regarding this patent will be mailed solely to the fee address of record until otherwise instructed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Daniel O'Brien
Massachusetts Institute of Technology
Five Cambridge Center, Kendall Square
Room NE25-230
Cambridge, MA 02142-1493

[1] The Office acknowledges receipt of a Statement under 37 CFR 3.73(b) received on January 10, 2011.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/14/11

TO SPE OF : ART UNIT 2883

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/391,052 Patent No.: RE 41,460

CofC mailroom date: 09/08/11

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 Hardwick
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.

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

Comments: _____

/Mark Robinson/ 2883
SPE **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.
10/391,090	03/18/2003	Joseph A. Sorge	Sorge-090	5609

93599 7590 07/01/2011
Eric P. Mirabel
3783 Darcus
Houston, TX 77005

EXAMINER
SHAW, AMANDA MARIE

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
07/01/2011	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):

emirabel@comcast.net

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL - 1 2011

Eric P. Mirabel
3783 Darcus
Houston TX 77005

In re Application of:
Joseph A. Sorge.

Serial No.: 10/391,090

Filed: March 18, 2003

Docket: **Sorge-090**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

Title: **METHODS OF ENRICHING FOR AND IDENTIFYING POLYMORPHISMS**

This is a decision on the petition filed on June 28, 2011 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

(A) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (*see* MPEP section 607(I)),

(B) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (*see* MPEP section 607(II));

(C) An executed oath or declaration in compliance with 37 CFR 1.63;

(D) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;

(E) A title and an abstract in compliance with 37 CFR 1.72;

(F) Drawings in compliance with 37 CFR 1.84;

(G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);

(H) Foreign priority claim under 35 U.S.C. 119(a)–(d) identified in the executed oath or declaration or an application data sheet (if applicable);

(I) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (*e.g.*, the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is accurate, have been filed in the provisional application) (if applicable);

(J) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);

(K) No preliminary amendments present on the filing date of the application; and

(L) No petition under 37 CFR 1.47 for a non-signing inventor.

4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was no in condition for examination as evidenced by applicants' failure to file this petition in accordance with the rules for accelerated examination and MPEP 708.02 which states "Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age. Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below. A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a)." In the event applicant is attempting to invoke a green tech petition, proper procedures have not been followed. Please see the OG Notice of Dec 2009 and May 2010 for green tech petitions.

For the above-stated reasons, the petition of June 28, 2011 is **DENIED**.

Any inquiry regarding this decision should be directed to Marianne C. Seidel, Quality Assurance Specialist, at (571) 272-0584.

/MC Seidel/
Marianne. C. Seidel, Quality Assurance Specialist
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

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. 6,938,716	:	
Issue Date: September 6, 2005	:	
Application No. 10/391,147	:	ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. S51.12-0045	:	

This is a decision in response to a petition filed May 17, 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**.

This patent expired on September 7, 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).

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) 272-6059.

Alicia Kelley
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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FEB 11 2011

OFFICE OF PETITIONS

JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH GA 30096

In re Application of	:	
Frederic R. David et al.	:	
Application No. 10/391,498	:	DECISION ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. 454313-3169.1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, 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 June 15, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 15, 2010. Accordingly, the date of abandonment of this application is June 16, 2010. A Notice of Abandonment was mailed on July 1, 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) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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.

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

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.

PITTS AND BRITTIAN P C
P O BOX 51295
KNOXVILLE TN 37950-1295

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,036,433 :
Issue Date: May 2, 2006 :
Application No. 10/391,881 : DECISION ON PETITION
Filed: March 19, 2003 :
Atty Docket No. 28171.00 :

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN EXPIRED PATENT (37 CFR 1.378(c)), filed September 28, 2010, executed by sole inventor Beal.

The petition is **GRANTED**.

The patent issued May 2, 2006. The grace period for paying the 3-½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on May 2, 2010, with no payment received.

This petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional.

Accordingly, 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 related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
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)
6,978,776	2005-12-27	10/391,942	2003-03-19	1021

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

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	/Douglas L Weller/	Date (YYYY-MM-DD)	2010-08-14
Name	Douglas L. Weller	Registration Number	30506

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. 6978776
Issue Date: December 27,2005
Application No. 10391942
Filed: March 19,2003
Attorney Docket No. 1021

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

This is a decision on the electronic petition, filed August 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 August 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.

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MAILED

MAY 05 2011

OFFICE OF PETITIONS

The Procter & Gamble Company
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
Cincinnati, OH 45202

In re Application of
Eric Scott Johnson, et. al.
Application No. 10/392,422
Filed: March 18, 2003
Attorney Docket No. 8902M

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 15, 2010, requesting that the terminal disclaimer filed on March 28, 2005 be withdrawn. The $400 petition fee has been received[1].

The petition is **dismissed**.

Petitioner explains that "Applicants submitted a terminal disclaimer to obviate a provisional double patenting rejection over pending US Applications 10/802,166 and 10/742,557 on 3/28/2005. At the time that the terminal disclaimer was filed, the Proctor and Gamble Company was the owner of 100 percent interest in the two applications disclaimed. On November 10, 2008, The Proctor & Gamble Company, assigned, conveyed and transferred to Arch Chemicals, Inc., its legal representatives and successors, a one-half undivided ownership, right, title and interest, in pending application 10/802,166."

Petitioner's argument is not persuasive. According to the examiner, the Terminal Disclaimer filed on March 28, 2005, should not be withdrawn. The Examiner further states that the original terminal disclaimer was not in error and if the terminal disclaimer is nullified it would reopen the question of the propriety of the double patenting rejection.

In view of the above, the request cannot be favourably considered.

Telephone inquiries related to this decision should be addressed to Andrea Smith at (571) 272-3226. Inquiries relating to further prosecution should be directed to Technology Center 1600.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

[1] The $400 petition fee has been charged to petitioner's deposit account, as authorized.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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The Procter & Gamble Company
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
Cincinnati, OH 45202

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SEP 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Eric Scott Johnson, et. al.	:	
Application No. 10/392,422	:	DECISION ON PETITION
Filed: March 18, 2003	:	
Attorney Docket No. 8902M	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed July 22, 2011, requesting that the terminal disclaimer filed on March 28, 2005 be withdrawn.

In response to the decision mailed May 5, 2011, petitioner submits the present renewed petition along with a supplemental amendment filed on August 16, 2011 and August 17, 2011.

The undersigned has received a message from Primary Examiner John Pak, in Technology Center Art Unit 1616, that the terminal disclaimer can be withdrawn. Accordingly, the terminal disclaimer is hereby withdrawn. USPTO records for the above-identified application have been changed to be consistent with this decision.

In view of the above, the renewed petition is **granted**.

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

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.
10/392,496	03/20/2003	Scott Andrew Irwin	1160215/0510304	8891

7590 05/26/2011
FROST BROWN TODD LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202-4182

EXAMINER
LEMIEUX, JESSICA

ART UNIT	PAPER NUMBER
3693	

MAIL DATE	DELIVERY MODE
05/26/2011	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
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Alexandria, VA 22313-1450
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MAY 26 2011

Frost Brown Todd LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202-4182

In re application of	:	**DECISION ON PETITION**
Scott Andrew Irwin et al.	:	**TO MAKE SPECIAL**
Application No. 10/392,496	:	**(ACCELERATED**
Filed: March 20, 2003	:	**EXAMINATION)**
For: SYSTEM AND METHOD FOR A FLEXIBLE DEVICE-BASED RATING ENGINE		

This is in response to the petition filed on January 11, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The lengthy delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B) and (D) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required. In regard to item (D), it does not appear that copies of each of the references deemed most closely related to the claimed subject matter.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

In re Patent No. 7062592
Issue Date: June 13,2006
Application No. 10392560
Filed: March 19,2003
Attorney Docket No. 42P16371

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

This is a decision on the electronic petition, filed August 31,2010 ,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 31,2010 . 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)
7062592	2006-06-13	10392560	2003-03-19	P16371

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

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. Draeger/	Date (YYYY-MM-DD)	2010-08-31
Name	Jeffrey S. Draeger	Registration Number	41000

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.

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: Alicherry 1-1-1-1-16 (M)-US-NP	Patent Number: 7,660,235
Filing Date (or 371(b) or (f) Date): March 20, 2003	Issue Date: February 9, 2010
First Named Inventor: Mansoor Ali Khan Alicherry	
Title: Low latency shared data path allocation	

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 /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***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.

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

Mail Date: 08/17/2010

Applicant	: Mansoor Ali Khan Alicherry	: DECISION ON REQUEST FOR
Patent Number	: 7660235	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/392,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1781** 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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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Patent No. 7,749,208	:	
Issue Date: 07/06/2010	:	
Application Number: 10/392,895	:	DECISION ON PETITION
Filing or 371(c) Date: 03/21/2003	:	
Attorney Docket Number: 018798-126	:	

This is a decision on the petition under 37 CFR 1.182, filed on February 21, 2011, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Patent Publication Branch is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been received.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management Patent Publication Branch at (703) 756-1555.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person (Fax No. (571) 270-9764))
Kimberly Terrell (Fax No. (571) 270-9958))

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Reinert :
Application No. 10/393,150 :
Filed: 20 March, 2003 :
Attorney Docket No.: 5433-072184 :

DECISION
ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 15 January, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §119(e) for the benefit of priority to prior-filed application(s).

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3)/(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §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 C.F.R. §1.78(a)(2)(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.

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.

Application No. 10/393,150

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 1.78(a)(3) an d (a)(6) 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 119(e) and 365(c) and 37 C.F.R. 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(s), accompanies this decision on petition.

This application is being forwarded to the Pubvlications Branch for issuance of a Certificate of Correction in the form and substance submitted.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/393,150	03/20/2003	2872	675	5433-072184	4	1

CONFIRMATION NO. 8184

CORRECTED FILING RECEIPT

28289
THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

OC000000043267212

Date Mailed: 08/30/2010

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)

Gary L. Reinert SR., Pittsburgh, PA;

Power of Attorney: The patent practitioners associated with Customer Number 28289

Domestic Priority data as claimed by applicant

This application is a DIV of 09/796,394 03/01/2001 PAT 6,572,240
which is a CIP of 09/514,089 02/28/2000 PAT 6,196,697
which is a CIP of 09/113,980 07/10/1998 PAT 6,033,083
which is a CIP of 08/687,809 07/26/1996 PAT 5,779,349
which is a CIP of 08/464,736 06/29/1995 PAT 5,785,409
which is a 371 of PCT/US93/12640 12/29/1993
and said 08/687,809 07/26/1996
is a CIP of 08/058,356 05/10/1993 PAT 5,594,201
and is a CIP of 08/002,014 01/08/1993 PAT 5,541,362

Foreign Applications

If Required, Foreign Filing License Granted: 06/16/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/393,150**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

STAINLESS STEEL AIRPORT LIGHT CANNISTER APPARATUS AND METHOD

Preliminary Class

362

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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FRANK P. MALLAK
PPG INDUSTRIES, INC.
ONE PPG PLACE
PITTSBURGH, PA 15272

In re Patent No. 7,320,826
Issue Date: January 22, 2008
Appl. No: 10/393,174
Filed: March 20, 2003
For: Correction of Inventorship

This is a decision on the petition filed September 16, 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.

/Callie Shosho/

Callie Shosho
Supervisory Patent Examiner Art Unit 1787
Technology Center 1700

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)
7151330	2006-12-19	10393325	2003-03-20	731801-1010

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

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	/M.PaulQualey,Jr./	Date (YYYY-MM-DD)	2011-03-24
Name	M. Paul Qualey, Jr.	Registration Number	43024

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. 7151330
Issue Date: December 19,2006
Application No. 10393325
Filed: March 20,2003
Attorney Docket No. 731801.1010

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

This is a decision on the electronic petition, filed March 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 March 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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Charlie Kulas
CARPENTER AND KULAS, LLP.
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO CA 94303

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Patent No. 7,181,578 :
Issue Date: February 20, 2007 :
Application No. 10/393,390 : NOTICE
Filed: March 21, 2003 :
Attorney Docket No. 65362-013 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 13, 2010. 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: Silicon Graphics International Corp.
Attn: Legal Department
46600 Landing Parkway
Fremont, CA 94538

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)
7105744	2006-09-12	10393520	2003-03-18	2170687-000017

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

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	/carl m davis ii/	Date (YYYY-MM-DD)	2010-10-21
Name	Carl M. Davis II	Registration Number	31502

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
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In re Patent No. 7105744
Issue Date: September 12,2006
Application No. 10393520
Filed: March 18,2003
Attorney Docket No. 170687-00017

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

This is a decision on the electronic petition, filed October 21,2010 ,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 21,2010 .
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/393,855	03/21/2003	Henrik Stender	027232-001410US	3482

20350 7590 09/02/2010
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
VIVLEMORE, TRACY ANN

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
09/02/2010	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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

01 Sep 2010

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

In re Application of:	Hendrik. Stender *et al.*	
Application No.:	10393855	
Filed:	21 March 2003	DECISION ON PETITION TO ACCEPT COLOR DRAWINGS
Attorney Docket No.:	027232-001410US	
For:	PNA OLIGOMERS, OLIGOMER SETS, METHODS AND KITS PERTAINING TO THE DETECTION OF BACILLUS ANTHRACIS	

This is in response to applicant's petition filed 07 August 2006 under 37 C.F.R. 1.84 to use color drawings in the application. Applicant has (A) paid the appropriate petition fee; (B) provided three (3) copies of formal color drawings; (C) the black and white photocopy of the drawings in the image file wrapper will suffice for 37 C.F.R. 1.84(a)(2)(iii); and (D) the specification contains appropriate language for incorporation of color drawings under 37 C.F.R. 1.84(a)(2)(iv).

Applicant's petition is GRANTED.

Questions with regard to this letter should be directed to the undersigned as indicated below.

/ Christopher S. F. Low /

Christopher S. F. Low
Supervisory Patent Examiner
TC 1600, Art Unit 1636 (571) 272-0951
Christopher.low@uspto.gov

01 Sep 2010

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	10393936
Filing Date	24-Mar-2003
First Named Inventor	Mary Tabacco
Art Unit	1645
Examiner Name	ROBERT ZEMAN
Attorney Docket Number	062538-0102
Title	Fluorescent virus probes for identification of bacteria

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22428

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

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 first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	ECHO TECHNOLOGIES, INC
Address	451 D STREET
City	BOSTON
State	MA
Postal Code	02210
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Berkowitz, Benjamin/
Name	Berkowitz, Benjamin
Registration Number	59349

UNITED STATES 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 : August 11,2011

In re Application of :

Mary Tabacco

Application No : 10393936

Filed : 24-Mar-2003

Attorney Docket No : 062538-0102

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 August 11,2011

The request is **APPROVED.**

The request was signed by Berkowitz, Benjamin (registration no. 59349) on behalf of all attorneys/agents associated with Customer Number 22428 . All attorneys/agents associated with Cusotmer Number 22428 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 correspondence address:

Name	ECHO TECHNOLOGIES, INC
Name2	
Address 1	451 D STREET
Address 2	
City	BOSTON
State	MA
Postal Code	02210
Country	US

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.

Office of Petitions

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Paper No.

MAILED

NOV 21 2011

OFFICE OF PETITIONS

Brocade-Wong Cabello Lutsch Rutherford
& Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston TX 77070

In re Patent No. 8,051,197	DECISION ON REQUEST FOR
Mullendore et al.	RECONSIDERATION OF
Issue Date: November 1, 2011	PATENT TERM ADJUSTMENT
Application No. 10/393,957	and
Filed: March 20, 2003	NOTICE OF INTENT TO ISSUE
Atty Docket No.: 112-0346US/	CERTIFICATE OF CORRECTION
233-603-USP	
Title: NETWORK CONGESTION	
MANAGEMENT SYSTEMS AND METHODS	

This is a decision on the petition filed on November 7, 2011 pursuant to 37 C.F.R. § 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be changed from two thousand, seven hundred and fifty-four (2754) days to two thousand, five hundred and fifty-four (2554) 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, five hundred and fifty-four (2554) days is **GRANTED**.

BACKGROUND

On November 1, 2011, the above-identified application matured into US Patent No. 8,051,197 with a patent term adjustment of 2754 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).

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

Patentee argues that the period of B-delay should be reduced by 200 days.

The Office agrees. This application was filed on March 20, 2003, and as such, the over-three year period commences on March 21, 2006 (and runs until the date of issuance on November 1, 2011, which constitutes 2052 days). The Office mailed an action under 35 U.S.C. § 132 on October 6, 2006, which is 14 months and 869 days after the filing of this application, and this warrants an adjustment of 869 days, pursuant to 37 C.F.R. § 1.702(a)(1). The 200-day period between March 21, 2006 and October 6, 2006 overlaps with the period of B-delay, and as such, this period is reduced from the B-delay, pursuant to 37 C.F.R. § 1.703(f).

It follows that the Office agrees that the patent term adjustment totals 2554 (2039 examination delay plus 911[1] B delay minus 200 overlap minus 196 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 **two thousand, five hundred and fifty-four (2554) days**.

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

[1] 2052 over-three years minus 1141 pursuant to 37 C.F.R. § 1.704(b)(4) equals 911.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,051,197 B2

DATED : **November 1, 2011** **DRAFT**

INVENTOR(S) : **Mullendore 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 2754 days

Delete the phrase "by 2754 days" and insert -- by 2554 days --

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

DEC 07 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (SD)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,578,307
Issued: August 25, 2009
Application No. 10/394,101
Filed: March 19, 2003
Attorney Docket No. 99990-0029001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed October 26, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 857 days to 968 days. Since the request is after issuance, the request is being treated under 37 CFR 1.705(d). Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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 adjusted by one thousand twenty-two (1022) days and is **GRANTED to the extent indicated herein**.

Patentee has miscalculated the total patent term adjustment. Patentee acknowledges that there is applicant delay pursuant to 37 CFR 1.704(c)(3) for the period starting on the day after the date the response was due to the Board decision, however that period begins on January 19, 2009 (Communication was mailed on December 18, 2008 and set a period of one month for response) and ends on March 20, 2009, the date of mailing of the decision reviving the application. Thus an additional period of application delay in the amount of 61 days should have been accorded.

As such, the patent term adjustment is 1022 days (916 "A delay" days plus 1255 "B delay" days minus 690 days consumed by Appellate Review minus 459 days for applicant delay), not 968 days.

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

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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 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 twenty-two (1022)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,578,307 B2

DATED : August 25, 2009

INVENTOR(S) : Dana M. Ung

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 (857) days

Delete the phrase "by 857 days" and insert – by 1022 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.
10/395,154	03/25/2003	Jean-Marc Aiache	0579-1003-1	4490

466 7590 10/21/2010
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

EXAMINER
FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
1613	

NOTIFICATION DATE	DELIVERY MODE
10/21/2010	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):

DocketingDept@young-thompson.com

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 2 1 2010

Andrew J. Patch
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

In re Application of	:
Aiache	:
Serial No.: 10/395,154	:DECISION ON PETITION
Filed: 25 March 2003	:
Attorney Docket No.0579-1003-1:	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 12 October 2010 requesting reconsideration of the restriction requirement mailed 9 July 2009.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

All pending claims were examined on the merits over several rounds of prosecution. In the Office action mailed 19 August 2008, claims 1, 2, 4-6, 8, 9, 11-15, 18-30, 32-36 and 38-70 were examined on the merits and rejected.

On 18 November 2009, the already examined claims were divided up into 5 groups.

On 19 March 2010, applicants elected Group IV, claims 20, 21, 41, 58, 59, 60 and 70, with traverse.

On 9 July 2010, the examiner considered the traversal and made the restriction requirement final. Claims 1, 2, 4-6, 8, 9, 11-15, 18-30, 32-36 and 38-70 were withdrawn from consideration. Claims 20, 21, 41, 58-60 and 70 were rejected under 35 U.S.C. 103. In this action, claims 20, 21, 58-60 and 70 were indicated as both examined and as withdrawn from examination.

On 12 October 2010, applicants filed this petition under consideration.

DISCUSSION

The petition and file history have been carefully considered.

At the onset, it is noted that the Office must indicate exactly how an application is to be restricted. See MPEP 814.

> The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. Geneva Pharms. Inc. v. GlaxoSmithKline PLC, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01.

In this instance, the record is not clear because claims 20, 21, 58-60 and 70 are indicated as both examined and withdrawn from examination in the Office action mailed 9 July 2010.

Claim 1 presented on 21 August 2003 (below), was examined on the merits on 22 September 2004, 20 May 2005, 17 July 2006, 10 April 2006, 28 November 2007, and then 19 August 2008.

> CLAIMS
>
> 1. An intraocular implant adapted to come in contact with the aqueous humor comprising a hydrophilic polymer having a predetermined water content for implantation in an eye, an effective quantity of a medicated product for treatment of the eye being dispersed in the mass of the hydrophilic polymer of the implant, the association of the hydrophilic polymer and the dispersed medicated product being adapted to release the product progressively into the aqueous humor.

On 19 August, 2009, claim 1 was presented as follows, which is directed to essentially the same subject matter as original claim 1:

> 1. (previously presented) An intraocular implant configured for contact with the aqueous humor when implanted in the eye and comprised of a hydrophilic polymer soft implant material having a predetermined water content for implantation in an eye, an effective quantity of a medicated product for treatment of the eye being dispersed in the mass of the hydrophilic polymer of the implant, the association of the hydrophilic polymer and the dispersed medicated product being adapted to release the product progressively into the aqueous humor, the intraocular implant being sterilized and residing in the impregnation solution for subsequent implantation.

MPEP 803 sets forth two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

In this instance, because the Office has already examined all the claims on the merits through several rounds of prosecution, it would not be considered a serious burden for the examiner to continue to concurrently examine the claims in this application.

37 CFR 1.104 (b) sets forth following rule for completeness of an examiners action:

> The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made.

Because the Office action mailed 9 July 2010 failed to consider already examined Claims 1, 2, 4-6, 8, 9, 11-15, 18-30, 32-36 and 38-70 on the merits, this action is incomplete.

Finally, it is noted that this case has been pending for 7 years and contains 7 actions on the merits. MPEP 707.02 sets forth the following guidance for Applications Up for Third Action and 5-Year Applications:

> The supervisory patent examiners should impress their assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them.

The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution.

Any application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution. In order to accomplish this result, the application is to be considered "special" by the examiner.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The restriction requirement set forth amongst Groups I-V is withdrawn as improper.

The Office action mailed 9 July 2010 is withdrawn as incomplete.

The application will be forwarded to the examiner for preparation of an Office action on pending claims, consistent with this decision and with MPEP 707.02.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, 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.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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ALBUQUERQUE ENGINEER DISTRICT
ATTN: CESPA-OC
4101 JEFFERSON PL. NE
ALBUQUERQUE NM 87109-3434

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,194,389	:	
Issued: March 20, 2007	:	
Application No. 10/395,168	:	ON PETITION
Filed: March 25, 2003	:	
Attorney Docket No. COE-554	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 31, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 21, 2011 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) 272-7751.

/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
www.uspto.gov

Paper No.

Klaus Abraham-Fuchs
Graslitzer Strasse 17 91058
Erlangen
GERMANY

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Abraham-Fuchs et al.	:	
Application No. 10/395,246	:	
Filed: March 25, 2003	:	
Title: METHOD FOR AUTOMATED	:	
RECORDING OF PATIENT ACTIONS	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 22, 2010. Receipt of the statement in support of petition by attorney Burke is acknowledged.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, April 27, 2010, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on August 10, 2010.

This petition includes the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

[1] The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100816

DATE : 8/13/10

TO SPE OF : ART UNIT 1651 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.:10/395,552 Patent No.: **7,384,630**

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, LPE
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.

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

SPE /Michael G. Wityshyn/ ART UNIT 1651

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/16/2011

TO SPE OF : ART UNIT 2614 TSang Fan (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/395434 Patent No.: 8010124

CofC mailroom date: _____

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: _____

_____

H. Rhee

Certificates of Correction Branch

571-272-8680 _____

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: _____

/Ahmad F. Matar/ — **SPE**

2614 — **Art Unit**

OK TO ENTER: /K.N.N./ March 16, 2012

Attorney Docket No. 9314-38 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Osborn et al.
Application No.: 10/395,838
Filed: March 24, 2003
Title: *Methods, Systems And Computer Program Products For Providing Location Determination Information To An Assisted Location Service*

U.S. Patent No.: 8,010,124
Issued: August 30, 2011
Confirmation No: 9281

December 6, 2011

Commissioner for Patents
Attn: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR ENTRY OF CERTIFICATE OF CORRECTION UNDER No. 35 U.S.C. §254 AND 37 C.F.R. §1.322

Sir:

The Applicants of record for the above-referenced patent hereby request, pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322, that a Certificate of Correction be issued. This request is made in order to correct the mistakes incurred through the fault of the U.S. Patent and Trademark Office. The Applicants further direct the Commissioner's attention to IDS considered by the Examiner on March 31, 2009 and August 27, 2010 (copies attached). The mistakes appearing in the patent are set forth with corrections on the Certificate of Correction attached herewith.

No fee is believed due. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

Rohan G. Sabapathypillai
Registration No. 51,074

Customer No.: 54414
Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428, Raleigh, NC 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401

CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on December 6, 2011.

Lanie A. Dobson

OK TO ENTER: /K.N.N./ March 16, 2012

Attorney Docket No. 9314-38 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Osborn et al.
Application No.: 10/395,838
Filed: March 24, 2003
Title: *Methods, Systems And Computer Program Products For Providing Location Determination Information To An Assisted Location Service*

U.S. Patent No.: 8,010,124
Issued: August 30, 2011
Confirmation No: 9281

December 6, 2011

Commissioner for Patents
Attn: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR ENTRY OF CERTIFICATE OF CORRECTION UNDER No. 35 U.S.C. §254 AND 37 C.F.R. §1.322

Sir:

The Applicants of record for the above-referenced patent hereby request, pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322, that a Certificate of Correction be issued. This request is made in order to correct the mistakes incurred through the fault of the U.S. Patent and Trademark Office. The Applicants further direct the Commissioner's attention to IDS considered by the Examiner on March 31, 2009 and August 27, 2010 (copies attached). The mistakes appearing in the patent are set forth with corrections on the Certificate of Correction attached herewith.

No fee is believed due. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

Rohan G. Sabapathypillai
Registration No. 51,074

Customer No.: 54414
Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428, Raleigh, NC 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401

CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on December 6, 2011.

Lanie A. Dobson

Lanie A. Dobson

UNITED STATES 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. 7065445
Issue Date: June 20,2006
Application No. 10395841
Filed: March 24,2003
Attorney Docket No. 461386-0064

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

This is a decision on the electronic petition, filed April 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 April 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.

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)
7,065,445	2006-06-20	10/395,841	2003-03-24	461386-0064

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

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	/Khaled Shami/	Date (YYYY-MM-DD)	2011-04-27
Name	Khaled Shami	Registration Number	38745

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.

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)
6920474	2005-07-19	10/396,134	2003-03-25	MURP-2-M

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

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 M. Karmilovich Reg. No. 35,915/	Date (YYYY-MM-DD)	2011-01-28
Name	Jeffrey M. Karmilovich	Registration Number	35915

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 record s.

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. 6920474
Issue Date: July 19,2005
Application No. 10396134
Filed: March 25,2003
Attorney Docket No. 021329-0302378

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

This is a decision on the electronic petition, filed January 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 January 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

MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Leonatti et al.	:	
Application No. 10/396,860	:	DECISION ON PETITION
Filed: March 25, 2003	:	
Attorney Docket No. 025818-9124-00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected formal drawings in a timely manner in response to the Notice of Allowability, mailed October 4, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on January 5, 2007. A Notice of Abandonment was mailed February 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $1,500 , 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) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MARK L. WEBER
FIRST NATIONAL TOWER, FOUR FLOOR
AKRON, OH 44308

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 10/06/2010

Applicant	: Harinath Garudadri	: DECISION ON REQUEST FOR
Patent Number	: 7643558	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/396,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1088** 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)
6792619	2004-09-21	10396995	2003-03-25	IIP-09028-RA2

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

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	/SMSovinski/	Date (YYYY-MM-DD)	2010-08-11
Name	Sandra M. Sovinski	Registration Number	45781

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. 6792619
Issue Date: September 21,2004
Application No. 10396995
Filed: March 25,2003
Attorney Docket No.

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

This is a decision on the electronic petition, filed August 11,2010 ,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 11,2010 .
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

CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO
5 BECKER FARM ROAD
ROSELAND NJ 07068

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Patent No: 7,316,562	:	
Issued: January 8, 2008	:	
Application No. 10/398,013	:	NOTICE
Filed: July 21, 2003	:	
Attorney Docket No. 53550.62	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 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 **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 petition that is directed to the deficiency payment is not signed by the proper party. 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).

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: GILLIAN GASCOIGNE
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,316,562	:	
Issued: January 8, 2008	:	
Application No. 10/398,013	:	NOTICE
Filed: July 21, 2003	:	
Attorney Docket No. 53550.62	:	

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 5, 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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

MAILED
NOV 04 2011
OFFICE OF PETITIONS

In re Application of :
Wilhelm Brugger et al. :
Application No. 10/398,073 : DECISION ON PETITION
Filed: July 16, 2003 :
Attorney Docket No. **592050-2017** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 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 16, 2010. 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) was obtained. Accordingly, the date of abandonment of this application is December 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 a Request for Continued Examination (RCE) and fee of $465, and the submission required by 37 CFR 1.114; (2) the petition fee of $930; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 3769 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

United States Patent and Trademark Office

Commissioner for Patents
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FEB 04 2011

PCT LEGAL ADMINISTRATION

NORRIS MCLAUGHLIN & MARCUS, PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

In re Application of
Cartellieri et al.
Application No.: 10/398,276
PCT No.: PCT/EP01/11503
Int. Filing Date: 05 October 2001
Priority Date: 06 October 2000
Attorney Docket No.: 101769-208/TESA 1590-WCG
For: Method For Producing Crosslinked Acrylate Hot-Melt Adhesive Compounds

DECISION ON PETITION

This is in response to the petition to withdraw the holding of abandonment filed on 09 December 2010 and the renewed petition under 37 CFR 1.47(a) filed on 09 December 2010, which was supplemented on 02 February 2011.

DISCUSSION

Petition to Withdraw Holding of Abandonment

On 07 October 2010, a Notice of Abandonment was mailed for the reason that "no reply has been received" to the Decision mailed on 09 July 2010. However, the period for response to that decision, as extendable under 37 CFR 1.136(a), will not expire until 09 February 2011. Since the Notice of Abandonment was mailed prematurely, it is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

Petition Under 37 CFR 1.47(a)

In a Decision mailed on 09 July 2010, the petition under 37 CFR 1.47(a) filed on 18 February 2010 was dismissed, without prejudice, because requirement (2) had not been satisfied. In response, petitioner has submitted a declaration executed by formerly non-signing joint inventor Ulf Cartellieri. As such, the petition under 37 CFR 1.47(a) has been rendered moot. Said declaration, taken in combination with the previously filed declaration executed by the other joint inventors, satisfies the requirements of 37 CFR 1.497(a) and (b).

DECISION

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

This application is being returned to the Office of Patent Application Processing for further processing, including the correction of the electronic records of the USPTO (PALM) to show its status as pending. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **02 February 2011**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Randall Lee Morris	:	
Application No. 10/398,387	:	DECISION ON PETITION
Filed: April 7, 2003	:	
Attorney Docket No. CMMC-31	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2011, 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 May 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 28, 2011. Accordingly, the date of abandonment of this application is March 29, 2011.

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.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Hurtta et al.	:	
Application No. 10/398412	:	ON APPLICATION FOR
Filing or 371(c) Date: 08/26/2003	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
39700-605N01US/NC15553US	:	

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b)," filed February 28, 2011. Applicants petition for reconsideration of the patent term adjustment calculation to 913 days, not 1035 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in failing to calculate delays of 43 days, 65 days and 33 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating delays of 43 days, 65 days and 33 days is **GRANTED to the EXTENT INDICATED**.

On November 29, 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 (PTA) to date is 1035 days.

On February 28, 2010, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 1035 days, as indicated on the Determination of PTA mailed November 29, 2010, to an adjustment of 913 days. Applicants aver that the Office erred in calculating delays of 43 days, 65 days and 33 days.

As to the assertion that the Office erred in failing to calculate delays of delays of 43 days, 65 days and 33 days, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed November 29, 2010 indicates a patent term of 1035 days.

[1] PALM records show that the Issue Fee payment was received in the Office on February 28, 2011.

The instant request for reconsideration of patent term adjustment indicates that the Office erred in failing to calculate 43 total days of reduction in connection with the filing of Supplemental Responses filed on November 8, 2007, and April 28, 2008 respectively, pursuant to 37 CFR 1.704(c)(8).

Applicants provide further that the Office erred in failing to calculate a reduction of 65 days in connection with the filing of an Information Disclosure Statement ("IDS"), filed June 13, 2008. Applicants note that the IDS did not include a statement under 37 CFR 1.704(d).

Applicants also provide that the Office erred in failing to calculate a reduction of 33 days in connection with the filing of a reply to an Office action on November 17, 2009, three months and 33 days after the mailing of a final Office action, mailed July 15, 2009.

As to the assertion that the Office erred in calculating a reduction of 43 days in connection with the filing of Supplemental Responses filed on November 8, 2007, and April 28, 2008 respectively, a review of Office records confirms that Applicants timely filed a response to a non-final Office action on October 15, 2007. Thereafter, Applicants filed a Supplemental Response on November 8, 2007. Pursuant to 37 CFR 1.704(c)(8), a reduction of 24 days, beginning on the day after the date the initial reply was filed, October 16, 2007, and ending on the date that the supplemental reply or other paper was filed, November 8, 2007, is appropriate.

Further to this, a review of Office records confirms that Applicants filed a Request for Continued Examination ("RCE"), and a submission in response to a Notice of Allowance, mailed January 10, 2008, on April 9, 2008. Thereafter, Applicants filed a Supplemental Response on April 28, 2008. Pursuant to 37 CFR 1.704(c)(8), a reduction of 19 days, beginning on the day after the date the initial reply was filed, April 10, 2008, and ending on the date that the supplemental reply or other paper was filed, April 28, 2008, is appropriate.

As to the assertion that the Office erred in calculating a reduction of 65 days in connection with the filing of an IDS on June 13, 2008, Office records confirm that after filing the Supplemental Response on April 28, 2008, Applicants filed an IDS on June 13, 2008. Pursuant to 37 CFR 1.704(c)(8), a reduction of 46 days, beginning on the day after the date the initial reply was filed on April 29, 2008, and ending on the date that the supplemental reply or other paper was filed, June 13, 2008, is appropriate.

As to the assertion that the Office erred in failing to calculate a reduction of 33 days in connection with the filing of a Notice of Appeal in response to a final Office action on November 17, 2009, Office records confirm that a final Office action was mailed on July 15, 2009. Applicants filed an Amendment in response to the final Office action on October 9, 2009. In reply, the Office mailed an Advisory Action informing Applicants that the Amendment would not be entered. Applicants thereafter filed a Notice of Appeal and a Pre-Appeal Brief Request for Review on November 17, 2009. In a Notice of Panel Decision from Pre-Appeal Brief Review, mailed March 24, 2010, the Office re-opened prosecution, and a non-final Office action was mailed on June 9, 2010.

With respect to the Notice of Appeal filed November 17, 2009, the calculations of record are correct. In view of the Panel Decision, the period of reduction under 37 CFR 1.704(b) is calculated based upon the Amendment filed October 9, 2009, which is treated as a sufficient reply to the Office action mailed July 15, 2009.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is nine hundred forty-six (946) days (adjustments of 1037 days less reductions of 91 days), subject to any terminal disclaimer.

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, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, 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. 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).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10398412 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10398412

Application Filing Date	08/26/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1037
A Delays	1037	PTO Manual Adjustment	-89
B Delays	0	Applicant Delay (APPL)	2
C Delays	0	Total PTA (days)	946

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
134	04/08/2011		P028	Adjustment of PTA Calculation by PTO		89	0
128	11/29/2010		MN/=.	Mail Notice of Allowance			0
127	11/22/2010		IREV	Issue Revision Completed			0
126	11/22/2010		DVER	Document Verification			0
125	11/22/2010		N/=.	Notice of Allowance Data Verification Completed			0
124	11/22/2010		CNTA	Allowability Notice			0
121	09/24/2010		FWDX	Date Forwarded to Examiner			0
119	09/13/2010		MNRES	Mail Notice of Restarted Response Period			0
118	09/11/2010		NRES	Letter Restarting Period for Response (i.e. Letter re: References)			0
120	09/09/2010		A...	Response after Non-Final Action			0
117	06/09/2010	02/09/2010	MCTNF	Mail Non-Final Rejection	120		102
116	06/07/2010		CTNF	Non-Final Rejection			0
114	03/24/2010		FWDX	Date Forwarded to Examiner			0
113	03/24/2010		MAPCR	Mail Appeals conf. Reopen Prosec.			0
112	03/19/2010		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
115	01/15/2010		IDSC	Information Disclosure Statement considered			0
111	01/15/2010		LET.	Miscellaneous Incoming Letter			0
110	01/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
109	11/17/2009		AP.C	Request for Pre-Appeal Conference Filed			0
108	11/17/2009		N/AP	Notice of Appeal Filed			0
107	11/17/2009		XT/G	Request for Extension of Time - Granted			0
105	10/20/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
104	10/19/2009		CTAV	Advisory Action (PTOL-303)			0
103	10/11/2009		FWDX	Date Forwarded to Examiner			0
102	10/09/2009		A.NE	Amendment after Final Rejection			0
101	07/15/2009	04/16/2009	MCTFR	Mail Final Rejection (PTOL - 326)	80		96
100	06/22/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
99	06/17/2009		C.AD	Correspondence Address Change			0
98	02/24/2009		CTFR	Final Rejection			0
97	01/03/2009		FWDX	Date Forwarded to Examiner			0
96	12/18/2008		A...	Response after Non-Final Action			0
95	11/17/2008		MCTNF	Mail Non-Final Rejection			0
94	11/13/2008		CTNF	Non-Final Rejection			0
93	11/05/2008		FWDX	Date Forwarded to Examiner			0
92	10/21/2008		A...	Response after Non-Final Action			0
91	09/29/2008		MCTNF	Mail Non-Final Rejection			0
90	09/28/2008		CTNF	Non-Final Rejection			0
88	09/20/2008		FWDX	Date Forwarded to Examiner			0
86	09/20/2008		FWDX	Date Forwarded to Examiner			0
84	09/20/2008		ABN9	Disposal for a RCE / CPA / R129			0
89	09/03/2008		IDSC	Information Disclosure Statement considered			0
87	09/03/2008		AMS8	Amendment Submitted/Entered with Filing of CPA/RCE			0
85	09/03/2008		RCEX	Request for Continued Examination (RCE)			0
83	09/03/2008		M844	Information Disclosure Statement (IDS) Filed			0
82	09/03/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
81	09/03/2008		BRCE	Workflow - Request for RCE - Begin			0
80	08/04/2008		MM327	Mail Miscellaneous Communication to Applicant			0
79	07/30/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
78	07/04/2008		EIDC	Export to Initial Data Capture			0
77	06/30/2008		MEX.A	Mail Examiner's Amendment			0
76	06/30/2008		MN/=.	Mail Notice of Allowance			0
75	06/27/2008		IREV	Issue Revision Completed			0
74	06/27/2008		N/=.	Notice of Allowance Data Verification Completed			0
73	06/27/2008		DOCK	Case Docketed to Examiner in GAU			0
72	06/27/2008		DVER	Document Verification			0
70	06/27/2008		EX.A	Examiner's Amendment Communication			0
69	06/27/2008		CNTA	Allowability Notice			0
71	06/13/2008		M844	Information Disclosure Statement (IDS) Filed			0
68	06/13/2008		IDSC	Information Disclosure Statement considered			0
66	06/13/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
65	06/06/2008		FWDX	Date Forwarded to Examiner			0
64	04/28/2008		SA..	Supplemental Response			0
63	04/17/2008		FWDX	Date Forwarded to Examiner			0
61	04/17/2008		FWDX	Date Forwarded to Examiner			0
59	04/17/2008		ABN9	Disposal for a RCE / CPA / R129			0
62	04/09/2008		AMS8	Amendment Submitted/Entered with Filing of CPA/RCE			0
60	04/09/2008		RCEX	Request for Continued Examination (RCE)			0
58	04/09/2008		A.NA	Amendment after Notice of Allowance (Rule 312)			0
57	04/09/2008		BRCE	Workflow - Request for RCE - Begin			0
56	03/17/2008		FIDC	Finished Initial Data Capture			0
55	03/10/2008		QURF	Workflow - Query Request - Finish			0
54	03/10/2008		QURI	Workflow - Query Request - Begin			0
53	03/07/2008		TCPB	Printer Rush- No mailing			0
52	03/07/2008		MM327	Mail Miscellaneous Communication to Applicant			0
51	03/03/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
67	02/19/2008		IDSC	Information Disclosure Statement considered			0
50	02/19/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
48	01/30/2008		QURI	Workflow - Query Request - Begin			0
49	01/23/2008		PUBTC	Pubs Case Remand to TC			0
47	01/14/2008		EIDC	Export to Initial Data Capture			0
46	01/10/2008		MN/=.	Mail Notice of Allowance			0
45	01/10/2008		MEX.A	Mail Examiner's Amendment			0
44	01/08/2008		IREV	Issue Revision Completed			0
42	01/08/2008		EX.A	Examiner's Amendment Communication			0
41	01/08/2008		N/=.	Notice of Allowance Data Verification Completed			0
43	01/07/2008		DVER	Document Verification			0
40	01/07/2008		CNTA	Allowability Notice			0
37	10/24/2007		FWDX	Date Forwarded to Examiner			0

Documentation Explorer

36	10/15/2007	10/13/2007	A...	Response after Non-Final Action	2	35
35	07/13/2007		MCTNF	Mail Non-Final Rejection		0
34	07/05/2007		CTNF	Non-Final Rejection		0
28	04/17/2007		FWDX	Date Forwarded to Examiner		0
27	03/27/2007		ELC.	Response to Election / Restriction Filed		0
26	03/27/2007		XT/G	Request for Extension of Time - Granted		0
25	02/02/2007	10/26/2004	MCTRS	Mail Restriction Requirement	029	0
24	02/01/2007		CTRS	Restriction/Election Requirement		0
23	03/21/2006		DOCK	Case Docketed to Examiner in GAU		0
31	03/13/2006		IDSC	Information Disclosure Statement considered		0
22.7	03/13/2006		M844	Information Disclosure Statement (IDS) Filed		0
22	03/13/2006		WIDS	Information Disclosure Statement (IDS) Filed		0
32	01/03/2006		IDSC	Information Disclosure Statement considered		0
21.7	01/03/2006		M844	Information Disclosure Statement (IDS) Filed		0
21	01/03/2006		WIDS	Information Disclosure Statement (IDS) Filed		0
20	10/27/2005		C.AD	Correspondence Address Change		0
19	10/27/2005		PA..	Change in Power of Attorney (May Include Associate POA)		0
18	02/26/2005		DOCK	Case Docketed to Examiner in GAU		0
17	01/25/2005		DOCK	Case Docketed to Examiner in GAU		0
16	08/18/2004		DOCK	Case Docketed to Examiner in GAU		0
15	03/29/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
14	03/29/2004		DOCK	Case Docketed to Examiner in GAU		0
9	10/31/2003		L194	Cleared by OIPE CSR		0
7	09/25/2003		OIPE	Application Dispatched from OIPE		0
6	09/25/2003		M903	Notice of DO/EO Acceptance Mailed		0
33	08/26/2003		IDSC	Information Disclosure Statement considered		0
13.7	08/26/2003		M844	Information Disclosure Statement (IDS) Filed		0
13	08/26/2003		WIDS	Information Disclosure Statement (IDS) Filed		0
12	08/26/2003		LET.	Miscellaneous Incoming Letter		0
8	08/26/2003		371COMP	371 Completion Date		0
5	08/26/2003		ADDFLFEE	Additional Application Filing Fees		0
3	08/26/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
0.5	10/09/2000		NEFILE	International Filing date		0

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Patent No. 6,870,671	:	
Issue Date: March 22, 2005	:	
Application No. 10/398,498	:	NOTICE
Filed: April 3, 2003	:	
Patentee(s): Adrian Robert Leigh Travis	:	

This is a Notice regarding your "Notification of Change of Entity Status" filed on November 23, 2010, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

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

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APR 26 2011

PCT LEGAL ADMINISTRATION

STOEL RIVES LLP - PDX
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

In re Patent of	:	
BRENNAN, Martin John	:	
U.S. Patent No. 7,636,281	:	
Application No. 10/398,550	:	DECISION ON PETITION
International Filing Date: 03 October 2001	:	
Attorney Docket No. 42920/3:3	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed 23 December 2010, to accept an unintentionally delayed claim under 35 USC 365(c) for the benefit of the international application.

There is no claim of benefit under 35 USC 365(c). This application is a national stage filing under 35 USC 371. It does not claim benefit to the international application. Accordingly, a specific reference to the international application is not required.

This petition is **DISMISSED AS MOOT**. The $400 petition fee will be credited to deposit account no. 19-4455. Please note, that is not the petition fee applicable to petitions under 37 CFR 1.78, but it is the fee paid by applicants.

Any questions concerning this decision on petition may be directed to Erin Thomson at (571) 272-3292.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
PCT Legal Administration

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)
7,001,628	2006-02-21	10/398,706	2003-04-07	2457.001

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

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 Pietrangelo/	Date (YYYY-MM-DD)	2011-04-12
Name	John Pietrangelo	Registration Number	39331

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. 7001628
Issue Date: February 21,2006
Application No. 10398706
Filed: April 7,2003
Attorney Docket No. 2246.001

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

This is a decision on the electronic petition, filed April 12,2011 ,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 12,2011 .
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 : 3/17/08

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/398783 Patent No: 6887370 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

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

1771
Art Unit

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JOSEPH S. TRIPOLI
PATENT OPERATIONS
THOMSON MULTIMEDIA LICENSING INC
CN BOX 5312
PRINCETON, NJ 08543-0028

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of
Serge DeFramce, et al.
Application No. 10/398,817
Filed: April 9, 2003
Attorney Docket No. PF000098

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 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, November 24, 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 February 25, 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.

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 2621 for appropriate action by the Examiner in the normal course of business on the reply received July 12, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/21/2011

TO SPE OF : ART UNIT 2624 Bali Vikkram (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/398983 Patent No.: 7505635

CofC mailroom date: 6/24/2009

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
703-756-1571 _____

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: _____

/Bhavesh Mehta/ SPE, TC 2600 — SPE

2624 — Art Unit

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CHERNOFF VILHAUER MCCLUNG & STENZEL
ATTORNEY AT LAW
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
AGNES, George et al.	:	
Application No. 10/399,823	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,785,897	:	
Filed: October 23, 2003	:	
Attorney Docket No. CDM/2353.0008		

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

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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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Charney, Douglas	:	DECISION ON PETITION
Application No. 10/400,649	:	TO WITHDRAW
Filed: March 28, 2003	:	FROM RECORD
Attorney Docket No. VTX0012-US	:	

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 28, 2010.

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. If the practitioner(s) was 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.

In the instant application, the practitioners were not appointed via Customer Number. Therefore, requesting to withdraw via Customer Number is not the appropriate course.

Further, the Office will only accept correspondence address changes 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, the most current address information provided for the first named inventor. 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.*

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted.

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.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary NC 27518

MAILED

JAN 25 2012

OFFICE OF PETITIONS

In re Patent No. 6,696,659 :
Issue Date: 02/24/2004 :
Application Number: 10/400,841 : LETTER
Filing or 371(c) Date: 03/27/2003 :
For: GOLF CLUB GRIP MOLD :
APPARATUS AND METHOD :

This is in response to the letter concerning acceptance of a fee deficiency submission under 37 CFR 1.28 filed on January 12, 2012.

The letter is not properly signed.

37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

In this regard, while a letter stating that small entity status no longer applies to this patent is signed by a registered patent practitioner, a properly-signed statement under 37 CFR 1.28(c) has not been provided.

Any papers filed in the USPTO, including a fee deficiency submission under 37 CFR 1.28, must be signed in accordance with 37 CFR 1.33(b). Accordingly, it is recommended that patentees submit a properly signed request under 37 CFR 1.28.

The Office acknowledges receipt of payment of $1,500.00.

Small entity status does not apply to the patent.

A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

Cc:

BRADLEY J. DIEDRICH
EATON CORPORATION
EATON CENTER
1111 SUPERIOR AVE
CLEVELAND OH 44114-2594

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of	:	
John FRIEND et al.	:	
Application No. 10/400,970	:	DECISION ON PETITION
Filed: March 27, 2003	:	
Attorney Docket No. 005545.P025	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 2011, 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 March 08, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 08, 2010. Accordingly, the date of abandonment of this application is March 09, 2011.

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 $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to the Office of Data Management for processing into a patent.

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

MICHAEL LA BRIE
McAfee and Taft
211 N. Robinson, 10th Floor
Two Leadership Square
Oklahoma City, OK 73102

MAILED
FEB 06 2012
OFFICE OF PETITIONS

In re Patent No. 7,419,636 :
Issued: September 2, 2008 :
Application No. 10/401,051 : NOTICE
Filed: March 27, 2003 :
For: VAPOR SENSING INSTRUMENT FOR :
ULTRA TRACE CHEMICAL DETECTION

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.

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 correspondence address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
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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DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

MAILED
MAR 20 2012
OFFICE OF PETITIONS

In re Patent No. 7,419,636 :
Issue Date: September 2, 2008 :
Application No. 10/401,051 : DECISION ON REQUEST FOR REFUND
Filed: March 27, 2003 :
Attorney Docket No. 5671.047 :

This is a decision on the Request For Refund filed March 5, 2012.

The request is **DISMISSED**.

The request for refund is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request for refund is signed Stacy Wong. Note 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.

Regrettably, and in view of the above, the request for refund is dismissed at this time.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

NIXON & VANDERHYE P.C.
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201-4714

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

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Scott W. Lowe	:	
Application No. 10/401,116	:	ON PETITION
Filed: March 26, 2003	:	
Attorney Docket No. 1314.1048-002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2011, to revive the above-identified application.

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.

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 2, 2010. 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 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $270, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center 1632 for further examination on the merits.

A. Kelley

Alicia Kelley
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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of
Mark J. Stefik, et al.
Application No. 10/401,755
Filed: March 31, 2003
Attorney Docket No. 111325-023000

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 10, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Nixon Peabody, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

A review of the file also indicates that while the oath/declaration did include a power of attorney, the appointment of the representatives was not to Nixon Peabody, LLP.

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

There are no pending Office actions at the present time.

Telephone inquires 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: CONTENTGUARD HOLDINGS, INC.
222 N. SEPULVEDA BLVD.
SUITE 100
EL SEGUNDO, CA 90245

UNITED STATES PATENT AND TRADEMARK OFFICE

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HANDLEY LAW FIRM, PLLC
ROGER N. CHAUZA, PC
PO BOX 140036
IRVING TX 75014

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of :
William H. Price et al. :
Application No. 10/401,845 : ON PETITION
Filed: March 28, 2003 :
Attorney Docket No: CBCC-0100US

This is a decision on the petition under 37 C.F.R. §1.183 filed September 16, 2011 seeking waiver of 37 CFR §§ 1.131 where it requires that an affidavit be executed by the named inventors.

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on March 28, 2003 with an Oath fully executed by all of the co-inventors. In response to a non-Final Office Action mailed November 9, 2010, which set a shortened statutory period for reply of three months, On April 14, 2011, applicant submitted a reply, a declaration under 37 CFR 1.131 and a two month extension of time. The 37 CFR 1.131 declaration stated that William H. Price of Johnstown, Ohio, and Jonathan H. Price of Columbus, Ohio, are the joint inventors of the subject matter claimed and that the invention set forth in the claims of this application was conceived by prior to February 4, 2003. However, the 37 CFR 1.131 declaration was not signed by the joint inventors. A SUPPLEMENTAL DECLARATION UNDER RULE 1.131 OF PRIOR INVENTION IN THE UNITED STATES TO OVERCOME CITED U.S. PATENT has been filed with the instant petition and said Supplemental Declaration is signed by Jonathan H. Price but not by joint inventor William H. Price. Applicant has filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by joint inventor William H. Price. According to applicant, the declaration was sent to joint inventor William H. Price but no reply has been received.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[1]

[1] 37 CFR 1.131(a) (emphasis added).

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[2]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are all of the joint inventors including Swan.

The petition bears proof that efforts to have joint inventor William H. Price execute the declaration under 37 CFR 1.131 have been employed but have not been successful.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by all joint inventors but all except joint inventor William H. Price have executed it. Applicant has demonstrated that a *bona fide* effort has been employed. Accordingly, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The petition fee is set at $400.00 not $130.00 as indicated in the petition. Pursuant to the authorization to charge petitioner's deposit account for any additional fees required under 37 CFR 1.17, contained in the petition, deposit account no. 50-4132 has been charged in the amount of $400.00.

This matter is being forwarded to Technology Center 3691 for consideration of the 37 CFR 1.131 declaration filed September 16, 2011.

Telephone inquiries related 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

---

[2] MPEP 715.04.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,196,189	:	
Issue Date: March 27, 2007	:	
Application No. 10/402,056	:	NOTICE
Filed: March 28, 2003	:	
Attorney Docket No. **14184-029001**	:	

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)
7052209	2006-05-30	10402414	2003-03-28	2156

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

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	/Charles G. Nessler/	Date (YYYY-MM-DD)	2011-08-23
Name	Charles G. Nessler	Registration Number	27825

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7052209
Issue Date: May 30,2006
Application No. 10402414
Filed: March 28,2003
Attorney Docket No. 2156

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

This is a decision on the electronic petition, filed August 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 August 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Italo Corzani, et al.
Application No. 10/402,436
Filed: March 28, 2003
Attorney Docket No. CM2657

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, 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 June 24, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 24, 2010 . Accordingly, the date of abandonment of this application was at midnight June 24, 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 $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney 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.

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

This application is being referred to Publishing Division for processing into a patent.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Christine R. Ethridge
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222

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)
6850240	2005-02-01	10402485	2003-03-28	CT-324C

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

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)	2010-09-28
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. 6850240
Issue Date: February 1,2005
Application No. 10402485
Filed: March 28,2003
Attorney Docket No. CT-324C

:
: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.

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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Muller et al.	:	
Application No. 10/402,518	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. 543-94-001(HOOO-1-1047)	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 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 May 19, 2005. 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 August 20, 2005. A Notice of Abandonment was mailed March 27, 2006.

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 the 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. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. 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.

A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2636 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.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: MARK LORBIECKI
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE, SUITE 4800
SEATTLE, WA 98104

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 08/02/2010

Applicant	: Dimitrios Stiliadis	: DECISION ON REQUEST FOR
Patent Number	: 7649882	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/402,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1287** 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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WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Patent No. 6,894,362	:	
Issued: May 17, 2005	:	
Application No. 10/402,714	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. 690-003	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 21, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 18, 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.

Additionally, the address given on the petition differs from the new address of record. 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. Further, 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 the maintenance fees for the above-identified patent, the "fee address" and/or customer number forms should be submitted.

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: David M. Hill
380 Madison Avenue
New York, New York 10017

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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,150,991	:	
Issue Date: December 19, 2006	:	
Application No. 10/402,925	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. 01640313AA	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 8, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 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

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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	:	
Igor Garrievich Muttik, et al.	:	DECISION ON PETITION
Application No. 10/403,013	:	TO WITHDRAW
Filed: April 1, 2003	:	FROM RECORD
Attorney Docket No. NAI1P494/03.002.01	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed February 24, 2011.

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

cc: **Patent Capital Group**
6119 McCommas Blvd
Dallas TX 75214

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.
10/403,217	03/31/2003	Alfredo Choperena	ASP-66CIP	9222

27777 7590 08/02/2010
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER
CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
08/02/2010	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):

jnjuspatent@corus.jnj.com
lhowd@its.jnj.com
gsanche@its.jnj.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
Alfredo Choperena, et al.	:	
Application No. 10/403,217	:	DECISION ON PETITION
Filing Date: 31 March 2003	:	
For: STERILIZATION SYSTEM AND METHOD WITH	:	
TEMPERATURE-CONTROLLED	:	
CONDENSING SURFACE	:	

This is a decision on the petition under 37 CFR § 1.48(a) filed 16 July 2010. On July 16, 2010, the present petition and authorization to charge counsel's deposit account for the fee of $130.00 were filed. Petitioners request amendment of the inventorship to add Richard Jed Kendall and James P. Kohler. In support of the petition, statements from inventors Kendall and Kohler stating that the error in inventorship arose without deceptive intent on their parts, have been submitted. Petitioners request that the actual inventorship be given as Alfredo Choperena, Harold R. Williams, Szu-Min Lin, Robert Lukasik, Richard Jed Kendall and James P. Kohler.

37 CFR 1.48 Correction of inventorship states, in part:

(a) If the inventive entity is set forth in error in an executed 1.63 oath or declaration in an application, other than a reissue application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the application may be amended to name onth the actual inventor or inventors. . . . Such amendment must be accompanied by:

(1) A petition including a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or herpart;

(2) An oath or declaration by each actual inventor or inventors as required by § 1.63 or as permitted by 1.42, 1.43 or 1.47;

(3) The fee set forth in § 1.17(i); and

(4) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 3.73(b)).

A review of the record reveals that petitioners have complied with all the conditions in 37 CFR § 1.48(a). The petition is granted. A corrected filing receipt naming the actual inventors of the above-identified patent, namely Alfred Choperena, Harold R. Williams, Szu-Min Lin, Robert Lukasik, Richard Jed Kendall and James P. Kohler, will be issued.

PETITION GRANTED

Jill Warden
Supervisory Patent Examiner
Technology Center 1700

Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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MAILED
MAY 20 2011
OFFICE OF PETITIONS

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Patent No. 7,904,370
Issue Date: March 8, 2011
Application No. 10/403,333
Filed: March 31, 2003
Attorney Docket No. 03-287

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is in response to the "REQUEST FOR RECONSIDERATION OF PTA UNDER 37 C.F.R. § 1.705(d)" filed April 7, 2011. Patentees request that the patent term adjustment indicated on the patent be increased by one hundred seven (107) days.

The request for reconsideration of patent term adjustment is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand seven hundred ninety (1790)days.

Patentees dispute the period of reduction of 107 days entered for the November 22, 2010 filing of a letter that Patentees submitted pursuant to their duty of good faith and candor regarding an error in patent term adjustment.

Patentees are correct. A review of the record confirms that a period of reduction of 107 days was entered for the filing of a candor letter on November 22, 2010. The only other papers filed on November 22, 2010 was the issue fee transmittal, comments on statement of reasons for allowance and a Notice of Change in entity status, for which a period of reduction was not warranted.

§ 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Likewise, filing of a letter pursuant to comment 43 is covered by 37 CFR 1.704(e). Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 107 days will be properly restored to patentees patent term adjustment.

In view thereof, the patent should have issued with a revised patent term adjustment of one thousand seven hundred ninety (1790)days.

As the November 22, 2010 was submitted as an advisement to the Office of an error in Patentee's favor, the Office did not assess the $200.00 fee under 37 CFR 1.18(e). Likewise, no fee is required filed solely to remove the period of reduction entered due to the filing of the candor letter.

The Certificate of Correction Branch has been advised of this decision. The application is, thereby, forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. 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 NINETY (1790)days**.

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,904,370 B2

DATED : March 8, 2011

INVENTOR(S) : Scott F. Singer

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 (1683) days

Delete the phrase "by 1683 days" and insert – by 1790 days--

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)
6910548	2005-06-28	10/403,529	2003-03-31	

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

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	/Andrea E. Bates/	Date (YYYY-MM-DD)	2011-03-24
Name	Andrea E. Bates	Registration Number	54621

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. 6910548
Issue Date: June 28,2005
Application No. 10403529
Filed: March 31,2003
Attorney Docket No. 001701/0071

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

This is a decision on the electronic petition, filed March 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 March 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

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Patent No. 6,979,031 :
Issue Date: December 27, 2005 :
Application No. 10/404,030 : ON PETITION
Filed: April 2, 2003 :
Patentee(s) Benedict Coppotelli et al :

This is a decision on the petition under 37 CFR 1.378(c), filed February 16, 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.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Benedict Coppotelli & Staci Joi Coppottelli
1834 Charlton Circle
Toms River, NJ 08755

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICES OF J.D. GERAIGERY, P.C.
1133 Broadway, Suite 916
New York NY 10010

MAILED

DEC 28 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kirby Wayne Beard, et al. :
Application No. 10/404,031 :
Filed: April 2, 2003 :
Attorney Docket No. 153-002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2010 to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 26, 2006, 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) was obtained. Accordingly, the application became abandoned on July 27, 2006. The Notice of Abandonment was mailed November 21, 2006.

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

The 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). The amendment filed herewith petition ***does not*** prima facie place the application in condition for allowance.

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

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

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Examiner's Advisory Action PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/404,031	Applicant(s) BEARD ET AL.	
	Examiner Paul Marcantoni	Art Unit 1731	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 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) _____ 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: 2-5,7-9 and 12.
   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: for the reasons set forth in the final rejection.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Paul Marcantoni/
Primary Examiner, Art Unit 1731

Continuation of 13. Other: The "other evidence" presented in applicants' 138 page response has not been entered and not considered because applicants failed to provide a showing of good and sufficient reasons why other evidence is necessary and not earlier presented (37 CFR 1.1116(e). The amendment to the specification, however, has been entered.

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LAW OFFICES OF J.D. GERAIGERY, P.C.
1133 Broadway, Suite 916
New York NY 10010

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Kirby Wayne Beard, et al.	:	
Application No. 10/404,031	:	ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No. 153-002	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 27, 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 April 26, 2006. 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 July 27, 2006. The Notice of Abandonment was mailed November 21, 2006.

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, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1731 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

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BOSE MCKINNEY & EVANS LLP
111 MONUMENT CIRCLE, SUITE 2700
INDIANAPOLIS IN 46204

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of
Mick A. Trompen et al.
Application No. 10/404,274
Patent 7,682,354
Filed: April 01, 2003
Attorney Docket No. **9868-0010**

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has 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.

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

/Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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SEP 1 4 2010

Oblon, Spivak, McClelland Maier & Neustadt, L.L.P.
1940 Duke Street
Alexandria, VA 22314

In re Application of:
Junji Ando et al.
Application No. 10/404,347
Filed: May 20, 2010
For: CLUTCH PLATE, FRICTION CLUTCH, AND COUPLING DEVICE

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to the petition filed on May 20, 2010 under 37 CFR 1.181(a)(3) requesting the examiner to consider the prior art cited in the Information Disclosure Statement filed on May 11, 2007.

The petition is **GRANTED.**

A review of the record shows that applicants filed an Information Disclosure Statement (IDS) on May 11, 2007. The examiner refused to consider the IDS on August 13, 2007 on the ground that the certification statement under 37 C.F.R. 1.97(e)(1) was inaccurate. The examiner held the certification statement inaccurate because applicants have been aware of the reference to Mori et al. since January 8, 2008 as this reference has been listed in the IDS filed in the application 11/092,683. Applicants filed the Request for Continued Examination (RCE) on April 01, 2008, after the decision of the Board of Patent Appeals and Interferences on November 13, 2007, but made no specific mention of the IDS. On May 20, 2010, applicants filed the instant petition contending that the examiner should have automatically revisited and considered the IDS since the RCE was filed on April 01, 2008, which removed the requirement for a certification statement and placed the IDS in compliance with requirements as specified in MPEP 609.02(B)(3).

MPEP 609.02(B)(3) states,

> "Information filed in the application in compliance with the content requirements of 37 CFR 1.98 before the filing of a RCE will be considered by the examiner after the filing of the RCE. For example, an applicant filed an IDS in compliance with 37 CFR 1.98 after the mailing of a final Office action, but the IDS did not comply with the requirements of 37 CFR 1.97(d)(1) and (d)(2) and therefore, the IDS was not considered by the examiner. After applicant files a RCE, the

examiner will consider the IDS filed prior to the filing of the RCE. For more details on RCE, see MPEP § 706.07(h)".

MPEP 706.07(h) refers to 37 C.F.R. 1.114(c) which states,

"(c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of 37 C.F.R. 1.111".

The May 11, 2007 IDS is considered a submission of the RCE dated April 1, 2008. The IDS has been placed of record in the file and will be considered by the examiner.

Telephone inquiries should be directed to David D. Le, Supervisory Patent Examiner, Art Unit 3655, at (571) 272-7092.

David L. Talbott, Director
Patent Technology Center 3600
(571) 272-5150

ddl/lm: 08/09/10

LM

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In re Patent No. 7050279
Issue Date: May 23,2006
Application No. 10404646
Filed: April 2,2003
Attorney Docket No. A8337

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

This is a decision on the electronic petition, filed November 29,2010 ,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 29,2010 . 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)
7050279	2006-05-23	10404646	2003-04-02	A8337

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

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)	2010-11-29
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

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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.

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SUITE 2040
MILWAUKEE WI 53202-4497

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,291,487 :
Issue Date: November 6, 2007 :
Application No. 10/404,726 : CORRECTED NOTICE
Filed: April 1, 2003 :
Attorney Docket No. 310307.90061 :

This is a corrected notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 25, 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.

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

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3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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SEP 24 2010

OFFICE OF PETITIONS

In re Application of
Jonathan MARSDEN, et al
Application No. 10/404,972
Filed: March 31, 2003
Attorney Docket No. EFIM0556

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 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 December 18, 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 March 19, 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 $1620; and (3) the required 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 2625 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.

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

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3039 CORNWALLIS RD.
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RESEARCH TRIANGLE PARK NC 27709

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MAR 23 2012
OFFICE OF PETITIONS

In re Application of
Khatri et al.
Application No. 10/405,278
Filed: April 1, 2003
Attorney Docket No.
RSW920030006US1
Title: SYSTEM, METHOD AND PROGRAM PRODUCT FOR PORTLET-BASED TRANSLATION OF WEB CONTENT

DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on February 28, 2012.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 23, 2011, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on December 24, 2011. A Notice of Abandonment was mailed on January 11, 2012.

ANALYSIS

With this petition, Petitioner has alleged that both the issue and publication fees were submitted to the Office on December 22, 2011.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

The electronic file has been reviewed, and a copy of form PTOL-85b has been located in the same. The submission was received on December 22, 2011, and it is noted that the response contains a date stamp from the Office of Patent Application Processing that is dated December 22, 2011.

Still further, Office records reflect the receipt of the fees that are associated with the issue and publication fees on December 22, 2011.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

CONCLUSION

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure the withdrawal of the holding of abandonment has been acknowledged by the Office of Patent Publication 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 Office of Patent Publication 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.[3] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

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

address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jeffrey T. Holman
1361 North Hwy 89, Suite #9
Farmington, UT 84025