SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/28/10

TO SPE OF : ART UNIT 3775

SUBJECT : Request for Certificate of Correction for Appl. No.: 10505469 Patent No.: 7776071

CofC mailroom date: 12/16/10

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
[redacted]

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

- ☒ **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

/Nicholas Woodall/ 01/03/11

/Thomas C Barrett/

Digitally signed by /Thomas C Barrett/
DN: cn=/Thomas C Barrett/, c=US, ou=SPE AU-3775
Date: 2011.01.17 17:29:09 -05'00'

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7244884
Issue Date: July 17,2007
Application No. 10505512
Filed: November 22,2004
Attorney Docket No. 610P014

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

This is a decision on the electronic petition, filed August 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 August 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)
7244884	2007-07-17	10505512	2004-11-22	610P014

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 S. Lemack/	Date (YYYY-MM-DD)	2011-08-18
Name	Kevin S. Lemack	Registration Number	32579

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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LAW OFFICES OF ALBERT WAI-KIT
CHAN PLLC
141-07 20TH AVENUE
WORLD PLAZA SUITE 604
WHITESTONE NY 11357

MAILED
DEC 14 2010
OFFICE OF PETITIONS

In re Patent No. 7,740,845	: DECISION ON
Nai-Kong V. Cheung	: REQUEST FOR RECONSIDERATION
Application No. 10/505,658	: of PATENT TERM ADJUSTMENT
Issue Date: June 22, 2010	: and
Filed: August 20, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 638-C-PCT-US	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)", filed July 30, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand sixty-four (1064) days to one thousand one hundred twenty-eight (1128) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

On June 22, 2010, the instant application matured into U.S. Patent No. 7,740,845 with a patent term adjustment of one thousand sixty-four (1064)days. Patentees timely filed the instant application for patent term adjustment on July 30, 2010. The Office determined a patent term adjustment of 1064 days based upon 419 days of Office delay pursuant to 37 CFR 1.703(a)(1), 192 days pursuant to 37 CFR 1.703(a)(2), and 759 days pursuant to 37 CFR 1.703(b), reduced by 114 days of Applicant delay pursuant to 37 CFR 1.704(c)(10).

Patentees argue that the proper amount of 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. Patentees argue that the "B" delay period is 778 days. Patentee's argument has been considered, but is not persuasive. The priority filing date is March 8, 2002. Therefore, the commencement date began on September 8, 2004 (30 months after the priority date. See 37 CFR 1.703(b). As such, the "B" delay period was properly calculated as 759 days.

Lastly, 114 days of applicant delay should not have been assessed for the filing of an issue fee transmittal letter on March 1, 2010. Rather, Patentees are correct that sixty-nine (69) days of Applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(10). Applicants filed an RCE on October 7, 2009, subsequent to the mailing of a Notice of Allowance on August 21, 2009. Thereafter, the Office mailed another Notice of Allowance on December 14, 2009. Accordingly, pursuant to 37 CFR 1.704(c)(10), sixty-nine (69) days of applicant delay should have been assessed.

In view thereof, the correct number of days of patent term adjustment is 1109 days (1370days (611 days of "A"' delay and 759 days of "B" delay) of PTO delay, reduced by 69 days of Applicant delay and 192 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 **one thousand one hundred nine (1109)** 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 : 7,740,845 B2

DATED : **June 22, 2010**

INVENTOR(S) : Cheung

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 1064 days.

Delete the phrase "by 1064 days" and insert – by 1109 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/22/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10505796 Patent No.: 7375134

CofC mailroom date: 07/13/11

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
[redacted]

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IP STRATEGIES
12 1/2 WALL STREET
SUITE E
ASHEVILLE NC 28801

MAILED

SEP 21 2011

OFFICE OF PETITIONS

In re Application of
Kahl
Application No. 10/506,028
Filed: January 21, 2005
Attorney Docket No. GRUNP38

ON PETITION

This is a decision on the petition under 37 CFR 1.1.137(b), filed on September 19, 2011, to revive the above-cited application.

The petition is **GRANTED**.

The record reflects that a Notice of Non-Compliant Appeal Brief was mailed March 20, 2009, allowing a shortened period for reply of one month from its mailing date. A response was not received and the application became abandoned on April 21, 2009. A Notice of Abandonment was mailed September 25, 2009.

The "Revised Appeal Brief", filed September 19, 2011, is noted.

The application is being forwarded to Technology Center 3600, GAU 3679 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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
APR 20 2011
OFFICE OF PETITIONS

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re Patent No. 7,239,153	:	
Issued: July 3, 2007	:	
Application No. 10/506,197	:	NOTICE
Filed: December 14, 2004	:	
Attorney Docket No. 2800-123	:	

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 not entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,771,727	: DECISION ON
Fuselier, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/506,223	: of PATENT TERM ADJUSTMENT
Issue Date: August 10, 2010	: and NOTICE OF INTENT
Filed: July 13, 2005	: TO ISSUE CERTIFICATE OF CORRECTION
Attorney Docket No. 07005/007002	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed October 7, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1267 days to 1237 days.

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

On August 10, 2010, the instant application matured into U.S. Patent No. 7,771,727 with a patent term adjustment of 1267 days. The Office determined a patent term adjustment of 1267 days based upon 639 days of Office delay pursuant to 37 CFR 1.703(a)(1), and 948 days pursuant to 37 CFR 1.703(b), reduced by 34 days of Applicant delay pursuant to 37 CFR 1.704(b) and 286 days of overlap between "A" and "B" delay. The Office determined the "B" delay of 948 days using a commencement date of September 1, 2004 (i.e. the date that was 30 months from the priority date of March 1, 2002). Accordingly, the over three year period began on September 2, 2007 (the day after the end of 36 months from commencement) and ended on April 6, 2010 (one days before the RCE filing date of April 7, 2010, and is 948 days. Overlap occurred between the "A" and "B" periods beginning on September 2, 2007 and ending on June 13, 2008, the day the first action under 35 USC 132, the Restriction Requirement, was mailed.

Moreover, a review of the file reveals that Applicants should have been assessed additional delay pursuant to 37 CFR 1.704(c)(10). Applicants filed a Rule 312 Amendment on September 24, 2009. The Office mailed a response to the Rule 312 Amendment on March 9, 2010, more than

four months later. In view thereof, 120 days of Applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(10).

In view thereof, the patent term adjustment is 1147 days (639 days of "A" delay, plus 948 days of "B" delay, reduced by 154 (2+32+120) days of Applicant delay and 286 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 **one thousand one hundred forty-seven (1147)** 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

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,771,727 B2

DATED : **August 10, 2010**

INVENTOR(S) : Fuselier 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 1267 days.

Delete the phrase "by 1267 days" and insert – by 1147 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BARBARA A. SHIMEI
DIRECTOR, PATENTS & LICENSING
BAYER HEALTHCARE LLC -
PHARMACEUTICALS
555 WHITE PLAINS ROAD, THIRD
FLOOR
TARRYTOWN NY 10591

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,476,742	:	
Wickens et al.	:	ON PETITIONS
Application No. 10/506,270	:	under 37 CFR 1.183
Issue Date: 01/13/2009	:	and
Filed: 08/30/2004	:	ON REQUEST FOR RECONSIDERATION
Attorney Docket No.	:	OF PATENT TERM ADJUSTMENT
5123	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on March 26, 2010.

The petition is **DISMISSED**.

Your petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,476,742 is 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 requests for PTA recalculation 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 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."

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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

Cc: MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, NC 27627

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

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

Attorney Docket Number: 0210-0190PUS1	
Application Number: 10/506,327	Filing Date (or 371(b) or (f) Date): September 2, 2004
Patent Number: 7,659,112 B2	Issue Date: February 9, 2010
First Named Inventor: Shingo Hiramatsu	
Title: PROCESS FOR PRODUCING PHYSIOLOGICALLY ACTIVE PROTEIN USING GENETICALLY MODIFIED SILKWORM	

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 6, 2010
Name (Print/Typed) Susan W. Gorman	Registration Number 47,604

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 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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United States Patent and Trademark Office
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www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 09/02/2010

Applicant	: Shingo Hiramatsu	: DECISION ON REQUEST FOR
Patent Number	: 7659112	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/506,327	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **14** 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.

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10506366
Filing Date	02-Feb-2005
First Named Inventor	Michele Orlando
Art Unit	1623
Examiner Name	EVERETT WHITE
Attorney Docket Number	14503-010US1
Title	COUPLING LOW-MOLECULAR SUBSTANCES TO A MODIFIED POLYSACCHARIDE

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Elizabeth N. Kaytor/
Name	Elizabeth N. Kaytor
Registration Number	53103

UNITED STATES 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 : March 9, 2012

In re Application of :

Michele Orlando

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10506366

Filed : 02-Feb-2005

Attorney Docket No : 14503-010US1

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 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 in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

This application file is being referred to Technology Center AU 1623 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAR 26 2012
OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Orlando et al.	:	
Application No. 10/506,366	:	ON PETITION
Filed: February 2, 2005	:	
Attorney Docket No. 14503-010US1	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.182" filed March 9, 2012, requesting that a terminal disclaimer filed November 17, 2010 be withdrawn.

The petition is **GRANTED**.

The terminal disclaimer filed on November 17, 2010, is hereby **WITHDRAWN**.

Applicant argues that the terminal disclaimer is not needed as it is directed to the incorrect U.S. Patent Number 7,258,661. The correct U.S. Patent Number is 7,285,661. Applicant states that the incorrect patent number was referenced in the Office action mailed August 17, 2010. Accordingly, applicant requests that the TD over U.S. Patent No. 7,258,661 be withdrawn.

The examiner agrees with applicant and states that the terminal disclaimer does not apply to any claim currently of record because: the above stated US Patent No. **7,258,661** is not the correct patent number intended to reject the claims of record in a nonstatutory double patenting rejection. The correct patent number used in the Terminal Disclaimer should have been **7,285,661**, which has been

corrected by the Applicant. Thus, according to the examiner, it is permissible to withdraw the terminal disclaimer.

It should be noted that this decision is not a determination that the subject matter of the current claims is distinct from the claims in the patents and/or applications to which the terminal disclaimer applied.

Receipt of the petition fee of $400 is acknowledged. An additional petition fee of $130 was charged. The $130 fee is unnecessary and is being refunded to petitioner's Deposit Account, as authorized.

Technology Center AU 1623 has been advised of this decision. The application is being referred to the Technology Center for further action in light of this decision, including withdrawal of the terminal disclaimer filed on November 17, 2010.

Telephone 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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Paper No.

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH
FLOOR
ARLINGTON VA 22203

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of	:	
Fogher et al.	:	DECISION ON
Application No. 10/506,448	:	PETITION
Filed: September 1, 2004	:	
Attorney Docket No. 4161-32	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 14, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a timely and proper reply to the final Office action mailed March 25, 2008. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply received and no extension of time obtained the application became abandoned effective June 26, 2008. A courtesy Notice of Abandonment was mailed on October 7, 2008.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

The instant application has been abandoned for an extended period of time. The Office is relying on petitioner's duty of good faith and candor in accepting the assertion that the entire

delay in filing the required reply was unintentional. See 37 CFR 10.18.

Technology Center AU 1638 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE (and submission) submitted on petition filed December 14, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD NJ 07090

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Volker A. Erdmann et al.	:	
Application No. 10/506,480	:	DECISION ON PETITION
Filed: August 15, 2005	:	
Attorney Docket No. ERD/US/0402	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 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 Office correspondence mailed May 15, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 16, 2008. A Notice of Abandonment was mailed on November 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of sequence listings , (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the sequence listings 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 1656 for appropriate action by the Examiner in the normal course of business on the reply received May 16, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,479,262	:	DECISION ON REQUEST
Okada et al.	:	FOR
Issue Date: January 20, 2009	:	RECONSIDERATION OF
Application No. 10/506,613	:	PATENT TERM ADJUSTMENT
Filed: September 13, 2004	:	and
Atty Docket No. 258778US0PCT	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 18, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-four (1164) 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 one hundred sixty-four (1164) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-four (1164)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,479,262 B2

DATED : **January 20, 2009** **DRAFT**

INVENTOR(S) : Okada 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 858 days

Delete the phrase "by 858 days" and insert – by 1164 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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02 AUG 2010

Dobrusin & Thennisch PC
29 W. Lawrence Street
Suite 210
Pontiac MI 48342

In re Application of:
BALINT, Gregory
U.S. Application No.: 10/506,852
PCT No.: PCT/IB2004/003067
Int. Filing Date: 24 June 2004
Priority Date: 24 June 2003
Atty. Docket No.: 1494.005
For: MULTI-COLOR INJECTION MOLDED DOOR PANEL AND PROCESS

DECISION ON PETITION

This decision is issued in response to applicants' "Petition for Correction of Priority Claim" filed 23 February 2010 and the Supplemental Petition for Correction of Priority Claim filed 07 July 2010. Additionally, this decision is issued in response to the supplemental application data sheet and amended specification submitted on 20 July 2010. Applicants are requesting that the United States Patent and Trademark Office properly acknowledge the claim to U.S. provisional application 60/480,966 and issuance of a corrected Notification of Acceptance and Official Filing Receipt. The petition(s) has been treated under 37 CFR 1.182, as explained below.

BACKGROUND

On 24 June 2004, applicants filed international application PCT/US2004/020257, which claimed priority of an earlier U.S. provisional application filed 24 June 2003.[1]

On 03 September 2004, applicants filed a submission under 35 U.S.C. 371. The application papers filed therewith included a Transmittal Letter to the United States Designated/ Elected Office Concerning a Filing under 35 U.S.C. 371; the basic national fee; a copy of the international application (including PCT Request); and an executed declaration. The application was processed as the U.S. National Stage of PCT/US2004/020257.

On 17 June 2005, a Notification of Acceptance was issued identifying the international application as PCT/US04/20267 with an international filing date of 24 June

[1]Pursuant to PCT Rule 19.4, the application materials were forwarded to the International Bureau (IB) for processing as an international application filed in the RO/IB on 16 September 2004.

2004 and no claim of priority.

On 23 February 2010, applicants filed "Petition for Correction of Priority Claim."

On 07 July 2010, applicants submitted a Supplemental Petition for Correction of Priority Claim.

On 20 July 2010, applicants submitted a supplemental application data sheet and an amended specification.

DISCUSSION

Petitioners request that the Office recognize their benefit claim to U.S. provisional application no. 60/480,966. It is noted that the initial submission under 35 U.S.C. 371 on 03 September 2004 includes a benefit claim to this provisional application. However, in order to determine whether the instant application is entitled to claim benefit to the provisional application pursuant to 35 U.S.C. 119(e), the international filing date under PCT Article 11 must be determined. See 35 U.S.C. 363.

The present application is identified as the U.S. national phase of international application no. PCT/US2004/020257. However, PCT/US2004/020257 was not accorded an international filing date by the United States Receiving Office (RO/US) but rather was transmitted to the International Bureau as the competent Receiving Office pursuant to PCT Rule 19.4. International application was assigned a new international application number (PCT/IB/2004/003067) and was accorded an international filing date of 24 June 2004 by the International Bureau. As such, it is appropriate, upon petition under 37 CFR 1.182, to correct the record of the present application to identify the application as the U.S. national stage of PCT/IB/2004/003067. As corrected, it is clear that the benefit claim to provisional application 60/480,966 should be reflected in the records of the Office.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for: issuing a corrected filing receipt and corrected Notification of Acceptance (Form/DO/EO/903) and identifying this application as the National Stage of International Application No. PCT/IB2004/003067 with a benefit claim to U.S. provisional application 60/480,966.

Anthony R

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE MD 21202-1626

MAILED
OCT 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Giron et al.	:	
Application No. 10/506,872	:	ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 087041/00011	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This application is being referred to Technology Center AU 3735 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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

MAILED

AUG 31 2011

OFFICE OF PETITIONS

In re Application of
Steven P. Gygi, et al.
Application No. 10/506,877
Filed: July 29, 2005
Attorney Docket No.: 56954 (70207)

ON PETITION

This is a decision in response to the petition, filed August 9, 2011 and supplement filed August 10, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Ms. Sonia K. Guterman 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. A courtesy copy of this decision is being mailed to petitioner. However, if Ms. Guterman desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 25, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 26, 2008. A Notice of Abandonment was mailed October 10, 2008. On August 10, 2011, the present petition was filed, along with a petition fee, an extension fee and an amendment.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $555 extension fee included with this petition is being refunded to counsel's credit card.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition is found to satisfy 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) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business on the reply received August 9, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHER J. KULISH, P.C.
1531 Norwood Avenue
Boulder, CO 80304

MAILED
NOV 17 2010
OFFICE OF PETITIONS

In re Patent No. 7,756,733	:	
Issue Date: July 13, 2010	:	
Application No.: 10/506,902	:	NOTICE
Filed: May 23, 2005	:	
Attorney Docket No.: 50962.0002	:	

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 patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SYNGENTA CROP PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO NC 27409

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Josef Ehrenfreund et al.	:	
Application No. 10/506,918	:	DECISION ON PETITION
Filed: April 28, 2005	:	
Attorney Docket No. **PPD50701/UST**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 2, 2010. Accordingly, the date of abandonment of this application is November 3, 2010.

The petition is hereby **GRANTED**.

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

It is noted that petitioner has submitted with the instant petition an amendment under 37 CFR 1.312 with the payment of the issue fee. Accordingly, since the amendment is being filed with the payment of the issue fee this application is being referred to the Examiner via Office of Data Management for consideration of the amendment under 37 CFR 1.312 filed on November 5, 2010.

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

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

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Boivin et al.	:	
Application No. 10/507,067	:	LETTER REGARDING
Filed: November 10, 2004	:	PATENT TERM ADJUSTMENT
Docket No. EISN-018US	:	
Title: MACROCYCLIC COMPOUNDS USEFUL	:	
AS PHARMACEUTICALS	:	

This is in response to the "APPLICATION FOR PATNET TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed July 15, 2010. Applicants request that the determination of patent term adjustment be increased by nine hundred and seventy-four (974) days to one thousand, two hundred and sixty-five (1265) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicants contend that one period of Office delay was incorrectly assigned and one period of applicant delay was incorrectly omitted.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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].

To the extent that Applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **GRANTED**.

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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.

Applicants dispute the adjustment of 51 days, pursuant to 37 CFR 1.703(a)(3) for Office delay in mailing a notice of allowance in response to the submission of a reply in compliance with 37 C.F.R. § 1.113(c): a first after-final amendment was filed on October 23, 2009, an advisory action was mailed on November 6, 2009, a second after-final amendment was filed on November 13, 2009, a third after-final amendment was filed on February 17, 2010, and a notice of allowance was mailed on April 15, 2010.

Applicants maintain that the Office incorrectly calculated the 4-month period for response as commencing on the 4-month anniversary of the October 23, 2009 amendment, instead of the 4-month anniversary of the February 17, 2010 amendment (which was in compliance with 37 C.F.R. § 1.113(c).

Applicants further dispute the failure to accord a reduction of 118 days, pursuant to 37 CFR 1.704(c)(7) for applicant delay in filing a reply which contains an omission: a non-final Office action was mailed on August 16, 2007, a reply was submitted on February 19, 2008, a notice of non-compliant amendment was mailed on May 14, 2008, and a reply correcting the omission was provided on June 16, 2008, 118 days after the submission of February 19, 2008.

Applicants maintain that 118 days of applicant delay should have been accorded.

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.[2]

The application history has been reviewed and it has been determined that Applicants are correct on both counts.

With regard to the adjustment of 51 days, the Office agrees that it was improper to have calculated the 4-month period for response required by 37 CFR 1.703(a)(3) as commencing with the 4-month anniversary of the October 23, 2009 after-final amendment: the Office should have calculated the period for response as commencing with the 4-month anniversary of the February 17, 2010 amendment. As such, the notice of allowance was timely mailed, and no adjustment should have been made.

The adjustment of 51 days has been removed.

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[2] Petition, page 5.

With regard to the submission of a reply which contains an omission, the Office agrees that a 118-day reduction should have been accorded.

A reduction of 118 days has been entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is one hundred and twenty-two (122) days (476 days of Office delay minus 354 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 Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

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.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Tuesday
Date: 8/17/2010

PALM INTRANET

Time: 15:22:37

PTA Calculations for Application: 10/507067			
Application Filing Date:	11/10/2004	PTO Delay (PTO):	527
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	236
Post-Issue Petitions:	0	Total PTA (days):	122
PTO Delay Adjustment:	-169		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
91	08/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		102	
90	08/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		118	
89	08/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	51		
80	04/15/2010	MAIL NOTICE OF ALLOWANCE	51		57
79	04/12/2010	ISSUE REVISION COMPLETED			
78	04/12/2010	DOCUMENT VERIFICATION			
77	04/12/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	04/12/2010	CASE DOCKETED TO EXAMINER IN GAU			
75	04/08/2010	EXAMINER'S AMENDMENT COMMUNICATION			
74	04/08/2010	NOTICE OF ALLOWABILITY			
70	10/23/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	10/23/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	03/31/2010	DATE FORWARDED TO EXAMINER			
67	02/17/2010	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
64	12/18/2009	NOTICE OF APPEAL FILED			
63	12/18/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	11/20/2009	DATE FORWARDED TO EXAMINER			
61	11/13/2009	SUPPLEMENTAL RESPONSE		21	57
60	11/06/2009	MAIL ADVISORY ACTION (PTOL - 303)			
59	11/05/2009	ADVISORY ACTION (PTOL-303)			
58	10/27/2009	DATE FORWARDED TO EXAMINER			
57	10/23/2009	AMENDMENT AFTER FINAL REJECTION		30	51

56	10/23/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	10/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	10/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	10/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	10/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	06/23/2009	MAIL FINAL REJECTION (PTOL - 326)			
50	06/18/2009	FINAL REJECTION			
49	03/10/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	03/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	46
47	04/08/2009	DATE FORWARDED TO EXAMINER			
46	03/10/2009	RESPONSE AFTER NON-FINAL ACTION		90	43
45	03/10/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	03/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	09/10/2008	MAIL NON-FINAL REJECTION			
42	09/09/2008	NON-FINAL REJECTION			
41	07/02/2008	DATE FORWARDED TO EXAMINER			
40	06/16/2008	RESPONSE AFTER NON-FINAL ACTION			
39	05/14/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
38	05/12/2008	MISCELLANEOUS ACTION WITH SSP			
37	02/26/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
36	02/26/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
35	02/26/2008	MISCELLANEOUS INCOMING LETTER			
34	03/10/2008	DATE FORWARDED TO EXAMINER			
33	02/19/2008	RESPONSE AFTER NON-FINAL ACTION		95	30
32	02/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	02/08/2008	CORRESPONDENCE ADDRESS CHANGE			
30	08/16/2007	MAIL NON-FINAL REJECTION			
29	08/03/2007	NON-FINAL REJECTION			

28	11/10/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	05/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	06/04/2007	DATE FORWARDED TO EXAMINER			
25	06/01/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
24	05/08/2007	MISCELLANEOUS INCOMING LETTER			
23	05/01/2007	MAIL RESTRICTION REQUIREMENT	476		9
22	04/30/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	03/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
20.7	05/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	03/27/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	11/10/2004	REFERENCE CAPTURE ON IDS			
17.7	11/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	03/23/2006	CLEARED BY OIPE CSR			
13	03/23/2006	CLEARED BY OIPE CSR			
12	03/23/2006	CLEARED BY OIPE CSR			
11	03/23/2006	CLEARED BY OIPE CSR			
10	03/03/2006	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
9	11/10/2004	371 COMPLETION DATE			
8	03/13/2006	APPLICATION DISPATCHED FROM OIPE			
7	03/13/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	02/21/2006	ADDITIONAL APPLICATION FILING FEES			
5	02/06/2006	PRE-EXAM OFFICE ACTION WITHDRAWN			
4	02/06/2006	NOTICE OF DO/EO MISSING REQUIREMENTS MAILED			
3	01/31/2006	PCT CLASSIFICATION			
2	10/06/2005	CORRESPONDENCE ADDRESS CHANGE			

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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Paper No.

NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Boivin et al.	:	
Application No. 10/507,067	:	LETTER REGARDING
Filed: November 10, 2004	:	PATENT TERM ADJUSTMENT
Patent No. 7,799,827	:	
Issued: September 21, 2010	:	
Docket No. EISN-018US	:	
Title: MACROCYCLIC COMPOUNDS USEFUL	:	
AS PHARMACEUTICALS	:	

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed November 19, 2010. Patentee requests that the patent term adjustment be corrected from one thousand and sixty-two (1062) days to one thousand, two hundred and thirty-one (1231) 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, one hundred and twelve (1112) days is **GRANTED to the extent indicated herein.**

On April 15, 2010, the Office mailed 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 to date is 291 days.

On July 15, 2010, a petition pursuant to 37 CFR 1.705(d) was filed, requesting that the determination of patent term adjustment be increased by nine hundred and seventy-four (974) days to one thousand, two hundred and sixty-five (1265) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The aforementioned petition was granted-in-part and dismissed-in-part via the mailing of a decision on August 18, 2010, which indicated, *in pertinent part*:

> the patent term adjustment at the time of the mailing of the notice of allowance is one hundred and twenty-two (122) days (476 days of Office delay minus 354 days of Applicant delay).
>
> Decision on original petition, page 4.

The patent issued on September 21, 2010 with a patent term adjustment of 1062 days. Patentee has filed this petition, disputing the period of B-delay that has been accorded.

Patentee has indicated that any patent issuing from the application is not subject to a terminal disclaimer.[1]

Neither the 476-day period of examination delay nor the 354-day period of Applicant delay appears to be in dispute.[2] The sole item in dispute appears to be the period of B-delay.

The Office holds that the period of B-delay totals 990 days, and not 1109 days as Patentee has argued or 991 days as shown on the Office's Patent Term Adjustment calculation sheet. A discussion follows.

The over-three year period totals 1109 days. A notice of appeal was filed on December 18, 2009, and a Notice of Allowance was mailed on April 15, 2010. The 119 days of the over three year period consumed by appellate review, beginning on December 18, 2009 and ending on April 15, 2010, are not included in the B-delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

Therefore the B-delay totals 990 days: 1109 days over three years minus the 119-day excluded period.

As such, the patent term adjustment is increased by 1112 (476 examination delay plus 990 B-delay minus 354 Applicant delay) days, not 1231 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

---

[1] Letter submitted concurrently with this renewed petition, page 3.

[2] Id., paragraph which bridges pages 1 and 2.

patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and twelve (1112) 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 : 7,799,827 B2

DATED : **September 21, 2010** **DRAFT**

INVENTOR(S) : Boivin 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 1062 days

Delete the phrase "by 1062 days" and insert – by 1112 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 15, 2011

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/507067 patent No: 7799827

CofC mailroom date: 6-22-11

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

Note: check column 545.

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: All of the corrections are approved.

KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER

Adj on behalf of Joseph McKane

SPE **Art Unit**

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2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

MAILED

FEB 16 2011

PCT LEGAL ADMINISTRATION

In re Application of BORSI et al	:	
U.S. Application No.: 10/507,178	:	
PCT Application No.: PCT/IB2003/001458	:	
Int. Filing Date: 11 March 2003	:	DECISION
Priority Date Claimed: 11 March 2002	:	
Attorney Docket No.: ELLIS-0001	:	
For: ANTIBODIES DERIVED ROM ANTI ED-B	:	
L19 AND TARGETING TUMOR VASCULATURE	:	

This is in response to applicant's correspondence filed 20 May 2010, which is being treated as a renewed petition under 37 CFR 1.137(b).

BACKGROUND

On 11 March 2003, applicant filed international application PCT/IB2003/001458, which claimed priority of an earlier United States application filed 11 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2004.

On 10 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 29 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that, *inter alia*, a sequence listing must be filed.

On 31 May 2005, applicant filed a sequence listing.

On 12 February 2007, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which indicated that a new sequence listing must be filed.

On 13 March 2007, international application PCT/IB2003/001458 became abandoned as to the United States for failure to timely respond to the Notification to Comply.

On 21 September 2007, applicant filed a petition under 37 CFR 1.137(b) along with a new sequence listing in electronic form.

On 28 July 2009, this Office mailed a decision dismissing the 21 September 2007 petition.

On 11 September 2009, applicant filed a renewed petition under 37 CFR 1.137(b).

On 01 March 2010, this Office mailed a decision dismissing the 11 September 2009 petition.

On 20 May 2010, applicant filed the instant renewed petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

Applicant has previously satisfied items (2)-(4) above.

With regard to item (1), a review of Office records revealed that the sequence listing filed 21 September 2007 was never properly checked for compliance. Subsequent to the filing of the present petition, the 21 September 2007 sequence listing was found to be compliant.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.137(b) is GRANTED.

The decisions mailed 28 July 2009 and 01 March 2010 are hereby VACATED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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MAY 10 2011

OFFICE OF PETITIONS

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

In re Application of	:
Fantini	:
Application No. 10/507,336	: ON APPLICATION FOR
Filed: June 28, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No. 10851-008US1	:
Title: OPTICAL IMAGING AND OXIMETRY OF TISSUE	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed March 8, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand one hundred ninety-seven (1,197) days, not three hundred eighty-four (384) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for review of the patent term adjustment is **GRANTED to the extent indicated**.

The Office has updated the PAIR screen to reflect the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is one thousand one hundred thirty-six (1,136) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

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

On December 21, 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 the patent term adjustment to date is 384 days. Applicant disputes the calculation.

The Office has considered applicant's argument and finds it persuasive.

Applicant contends that an adjustment of 836 days instead of 23 days is required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, pursuant to § 1.702(a)(1).

A review of the record shows that the Office action mailed on September 20, 2006 was for the wrong application. A non-final Office action was mailed on December 11, 2008, which is 14 months and 836 days after the application, fulfilled the requirements of 35 U.S.C. 371 on June 28, 2005.

As such an adjustment of 836 days, not 23 days is warranted.

However, a review of the application history reveals that applicants should have been assessed a delay of sixty-one (61) days.

37 CFR §1.704(b) provides:

> 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.

In this instance, the reply to the Notice to File Missing Requirements Under 35 USC 371 was not received until June 28, 2005, 61 days after the three months from the mailing of the Notice to File Missing Requirements. The reduction is based upon, the number of days in excess of three months that was taken to reply to the January 28, 2005 Notice. As such a reduction of 61 days will be entered.

The total number of days of applicant delay at the time of the mailing of the Notice of Allowance is 91 days (61 + 30).

The total number of days of Office delay at the time of the mailing of the Notice of Allowance is 1227 (836 + 391) days.

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 one thousand one hundred thirty-six (1,136) days.

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 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) 272-3215.

Charlema Grant

Charlema Grant
Petition Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

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

Application Number*: 10507336 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10507336

Application Filing Date	06/28/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	414
A Delays	414	PTO Manual Adjustment	752
B Delays	0	Applicant Delay (APPL)	30
C Delays	0	Total PTA (days)	1136

* - 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	05/09/2011		P028	Adjustment of PTA Calculation by PTO		61	0
68	05/09/2011		P028	Adjustment of PTA Calculation by PTO	836		0
67	05/09/2011		P028	Adjustment of PTA Calculation by PTO		23	0
58	12/21/2010		MN/=.	Mail Notice of Allowance			0
55	12/16/2010		N/=.	Notice of Allowance Data Verification Completed			0
54	12/16/2010		DOCK	Case Docketed to Examiner in GAU			0
57	12/15/2010		IREV	Issue Revision Completed			0
56	12/15/2010		DVER	Document Verification			0
53	12/14/2010		CNTA	Allowability Notice			0
51	12/07/2010		FWDX	Date Forwarded to Examiner			0
50	12/06/2010	11/06/2010	A.NE	Amendment after Final Rejection		30	46
49	12/06/2010		XT/G	Request for Extension of Time - Granted			0
48	08/06/2010		ELC_RVW	Electronic Review			0
47	08/06/2010		EML_NTF	Email Notification			0
46	08/06/2010	07/11/2009	MCTFR	Mail Final Rejection (PTOL - 326)	391		41
45	08/02/2010		CTFR	Final Rejection			0
44	06/22/2010		INHY	case Inherited			0
43	06/22/2010		DOCK	Case Docketed to Examiner in GAU			0
42	04/06/2009		FWDX	Date Forwarded to Examiner			0
41	03/11/2009		A...	Response after Non-Final Action			0
40	12/12/2008		ELC_RVW	Electronic Review			0
39	12/12/2008		EML_NTF	Email Notification			0
38	12/11/2008		MCTNF	Mail Non-Final Rejection			0
37	12/08/2008		CTNF	Non-Final Rejection			0
32	11/13/2008		DOCK	Case Docketed to Examiner in GAU			0
31	04/15/2008		DOCK	Case Docketed to Examiner in GAU			0
30	10/17/2007		W525	Withdraw Flagged for 5/25			0
29	10/15/2007		F525	Flagged for 5/25			0
28	09/24/2007		LET.	Miscellaneous Incoming Letter			0
27	08/23/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
25	08/13/2007		TI1050	Transfer Inquiry to GAU			0
24	08/10/2007		MW/AC	Mail Notice of Withdrawn Action			0
23	08/10/2007		W/AC	Withdrawing/Vacating Office Action Letter			0
26	03/08/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
22	09/20/2006	08/28/2006	MCTFR	Mail Final Rejection (PTOL - 326)	23		8
20	09/05/2006		CTFR	Final Rejection			0
19	09/05/2006		DOCK	Case Docketed to Examiner in GAU			0
17	05/02/2006		DOCK	Case Docketed to Examiner in GAU			0
18	12/22/2005		IDSC	Information Disclosure Statement considered			0
16	12/22/2005		RCAP	Reference capture on IDS			0
15.7	12/22/2005		M844	Information Disclosure Statement (IDS) Filed			0
15	12/22/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
14	12/03/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	12/03/2005		DOCK	Case Docketed to Examiner in GAU			0
12	09/29/2005		L194	Cleared by OIPE CSR			0
11	09/22/2005		L194	Cleared by OIPE CSR			0
10	09/22/2005		L194	Cleared by OIPE CSR			0
9	09/22/2005		L194	Cleared by OIPE CSR			0
7	09/16/2005		OIPE	Application Dispatched from OIPE			0
6	09/16/2005		M903	Notice of DO/EO Acceptance Mailed			0
8	06/28/2005		371COMP	371 Completion Date			0
5	06/28/2005		ADDFLFEE	Additional Application Filing Fees			0
4	06/28/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
3	06/28/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
0.5	03/13/2003		NEFILE	International Filing date			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/25/2011

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/507,340 Patent No. 7,749,867

CofC mailroom date 2/14/1

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.

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

Comments: _____

[signature] 2818

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER LLP (US)
4365 EXECUTIVE DR
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Edward A. Hunter, et al.	:	
Application No. 10/507,442	:	DECISION ON PETITION
Filed: March 15, 2006	:	
Attorney Docket No. BECK1240-1(02US0006-WOUS)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 14, 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 July 15, 2009. The Notice of Abandonment was mailed December 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 1631 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY NY 11797

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Richard E. Gilbert et al.	:	
Application No. 10/507,642	:	DECISION ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. **ON/4-32327A**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 11, 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, September 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 December 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 24, 2009 is accepted as having been unintentionally delayed.

The change of address filed July 23, 2010 has been processed and made of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1628 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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SEP 27 2010
OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

In re Patent No. 7,135,042	:	
Issue Date: November 14, 2006	:	
Application No. 10/508,024	:	NOTICE
Filed: November 12, 2004	:	
Attorney Docket No. 8932-1172-999	:	

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 C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: GIUESSPE MOLARO
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN ALEN
NEW YORK, NY 10038-4982

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : June 1, 2010

TO SPE OF : ART UNIT 3767
SUBJECT : Request for Certificate of Correction for Appl. No/10/508104 patent 7678084

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

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

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

Comments: _____

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons — 3762
SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Patent No. : 7,897,842 B2
Ser. No. : 10/508,166
Inventor(s) : Bakker et al.
Issued : Mar. 1, 2011
Title : GNT111 EXPRESSION IN PLANTS
Docket No. : P0850.70001US02
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

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MAY 31 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,897,842	:	
Application No. 10/508,166	:	
Filed: September 17, 2004	:	ON PETITION
Issued: March 1, 2011	:	
Attorney Docket No. P0850.70001US02	:	

This is a decision on the petition filed April 5, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Patent of Eberhard Ammermann et al.	:	DECISION ON REQUEST
Patent No. 7,683,086	:	FOR RECONSIDERATION OF
Issue Date: March 23, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/508,208	:	AND NOTICE OF INTENT TO
Filing Date: September 20, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 3165-110	:	CORRECTION

This is a decision on the petition filed May 21, 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 six hundred three (603) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by six hundred three (603) days is **GRANTED to the extent indicated herein**.

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, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

No portion of this decision should be construed as a waiver of the requirement, set forth in 35 U.S.C. § 154(b)(4), that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. § 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The patent issued March 23, 2010. The patent term adjustment on the patent is 539 days, which is the sum of 272 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 510 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") reduced by 35 days of overlap between the periods of A Delay and B Delay and reduced by 208 days of delay under 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay").

Petitioner asserts the correct patent term adjustment is 603 days based on an assertion the period of B Delay is 574 days, not 510 days.

The number of days beginning on the day after the date three years after the date of commencement and ending on the date of issuance is 574 days. However, the period of B Delay is not 574 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include any time period consumed by appellate review. Therefore, B Delay does not include the 65 days consumed by appellate review as a result of the Notice of Appeal filed February 13, 2008.

Although the Office disagrees with the assertion the period of B Delay is 574 days, the Office agrees the period of B Delay is not 510 days. Specifically, excluding 65 days from the 574-day period referenced above yields a period of B Delay of 509 days, not 510 days.

As discussed below, a review of the record indicates the total period of Applicant Delay is 181 days, not 208 days, based on the fact the Office should have entered a 93-day reduction, not a 120-day reduction under 37 C.F.R. § 1.704(c)(10).

The Office entered a 120-day reduction under 37 C.F.R. § 1.704(c)(10) as a result of the supplemental information disclosure statement ("IDS") filed November 18, 2009. The number of days beginning November 18, 2009, the date the IDS was filed, and ending February 19, 2010, the date the Office responded to the IDS, is 94 days. However, the proper reduction is not 94 days because one day of the 94-day period overlaps with a one-day reduction entered under 37 C.F.R. § 1.704(b). The proper reduction under 37 C.F.R. § 1.704(c)(10) is 93 days.

In view of the prior discussion, a certificate of correction will be issued indicating the patent term adjustment is 565 days, which is the sum of 272 days of A Delay and 509 days of B Delay reduced by 35 days of overlap and 181 days of Applicant Delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **five hundred sixty-five (565)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,683,086 B2
APPLICATION NO.	:	10/508,208
DATED	:	March 23, 2010
INVENTOR(S)	:	Eberhard Ammermann 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 539 days.

Delete the phrase "by 539 days" and insert -- by 565 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York NY 10281-2101

In re Patent No. 7,560,435
Issued: July 14, 2009
Application No. 10/508,305
Filing or 371(c) Date: May 11, 2005
Dkt. No.: 1004309.001US (4627-4005)

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on May 20, 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 703 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The "B" delay period is 390 days, not 158 days. Patentee 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). The priority date of this application is March 21, 2002. The requirements for early commencement were not met; accordingly, the national stage commenced in this application on September 21, 2004. Thus, the "B" delay is 390 days, counting the number of days beginning on September 22, 2007 and ending on October 15, 2008, the day before the date that the request for continued examination was filed. See 1.703(b).

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. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 390 days, not 158 days.

Moreover, the period of adjustment granted under 37 CFR 1.703 shall not exceed the actual number of days the issuance of the patent was delayed. As the period of adjustment pursuant to 37 CFR 1.703(a) and 1.703(b) share overlapping days, the period of adjustment does not include the 129 day overlap period which began September 22, 2007 and ended January 28, 2008. See, 37 CFR 1.703(f).

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 861 days (621 days under 37 CFR 1.703(a) + 390 days under 37 CFR 1.703(b) – 129 overlapping days per 37 CFR 1.703(f) – 21 days of applicant delay per 37 CFR 1.704).

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).

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 861 days.

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 : 7,560,435

DATED : **July 14, 2009** **DRAFT**

INVENTOR(S) : Lopez Blanco, 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 600 days

Delete the phrase "by 600 days" and insert – by 861 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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23995
RABIN & BERDO, PC
1101 14TH Street, NW, Suite 500
Washington, DC 20005

MAILED
JAN 11 2012
PCT LEGAL ADMINISTRATION

In re Application of :
NOTSU, Ikurou :
U.S. Application No.: 10/508,325 :
PCT No.: PCT/JP2003/003993 :
Int. Filing Date: 28 March 2003 :
Priority Date: 29 March 2002 :
Docket No.: GOT 193NP :
For: CONTROL DEVICE FOR HYBRID :
VEHICLE :

DECISION

This decision is in response to applicant's "Petition to Correct 371(c) Date" filed 14 December 2011 which is treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 01 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and an English translation. Applicant was given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 25 May 2005, applicant filed an executed declaration and surcharge fee.

On 25 October 2007, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements of 25 May 2005 and a filing receipt listing a "Filing or 371(c) Date" of 25 May 2005.

On 24 January 2008, the Office file indicates that an English translation of the specification, claims and drawings was submitted.

On 09 March 2010, the DO/EO/US mailed a second Form PCT/DO/EO/903 and filing receipt again listing the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and "Filing or 371(c) Date" as 25 May 2005.

On 08 September 2010, the DO/EO/US mailed a third Form PCT/DO/EO/903 and filing receipt changing the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and "Filing or 371(c) Date" this time as 24 January 2008.

On 14 December 2011, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of a date-stamped postcard receipt for documents filed 25 May 2005.

DISCUSSION

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. *See* MPEP § 503.

In this case, applicant has provided a copy of the date-stamped filing receipt for documents submitted 25 May 2005. The filing receipt is stamped "OIPE MAY 25 2005" across its face. The U.S. application number, attorney docket number, international filing date, title and name of the applicant are all listed on the postcard receipt. The postcard records that an "English-language Specification, Claims, Abstract (13 pg) and Drawings FIGS. 1-3" were received in the USPTO on 25 May 2005.

However, applicant did not provide a complete copy of the documents actually filed on 25 May 2005. It is not clear from the file what papers were submitted on 25 May 2005. Applicants must submit a complete copy of all documents filed on 25 May 2005 to have a grantable petition.

DECISION

For the reason discussed above, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. A proper response must include a complete copy of the papers filed 25 May 2005.

Any further correspondence may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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1101 14TH Street, NW, Suite 500
Washington, DC 20005

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MAR 19 2012
PCT LEGAL ADMINISTRATION

In re Application of :
NOTSU, Ikurou :
U.S. Application No.: 10/508,325 :
PCT No.: PCT/JP2003/003993 :
Int. Filing Date: 28 March 2003 :
Priority Date: 29 March 2002 :
Docket No.: GOT 193NP :
For: CONTROL DEVICE FOR HYBRID :
VEHICLE :

DECISION

This decision is in response to applicant's renewed petition under 37 CFR 1.181 filed 31 January 2012.

BACKGROUND

On 14 December 2011, a decision dismissing applicant's petition to correct the filing receipt was mailed. Applicant was given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 31 January 2012, applicant filed the subject response which was accompanied by, *inter alia*, a complete copy of the response originally filed 25 May 2005.

DISCUSSION

Applicant previously submitted a copy of the date-stamped filing receipt for documents submitted 25 May 2005 showing that an "English-language Specification, Claims, Abstract (13 pg) and Drawings FIGS. 1-3" were received in the USPTO on 25 May 2005. However, applicant did not provide a complete copy of the documents actually filed on 25 May 2005. Applicant was requested to submit a complete copy of all documents filed on 25 May 2005 for a grantable petition.

In the renewed response, applicant provided a complete copy of the documents originally submitted on 25 May 2005. These documents included an English translation of the subject application (specification, claims and drawings).

The evidence presented is sufficient to show that applicant completed all 35 U.S.C. 371(c) requirements on 25 May 2008, not 24 January 2008.

DECISION

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

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 08 September 2011 contain erroneous information regarding completion of all 35 U.S.C. 371 requirements.

As such, the Form PCT/DO/EO/903 and filing receipt are hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for mailing a corrected Form PCT/DO/EO/903 and filing receipt noting that applicant completed all 35 U.S.C. 371 requirements on 25 May 2005.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
SEP 21 2010
OFFICE OF PETITIONS

Wenderoth, Lind, & Ponack
1030 15th Street N.W.
Suite 400 East
Washington, DC 20005-1503

In re Patent No. 7,566,728	:
Teshima et al.	: DECISION UPON REMAND AND
Issue Date: July 28, 2009	: RECONSIDERATION OF
Application No. 10/508,339	: PATENT TERM ADJUSTMENT
Filed: October 25, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 2004-1514A	: TO ISSUE CERTIFICATE OF
Title: Remedy for Sleep	: CORRECTION
Disturbance	:

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 forty-five (1145) 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 forty-five(1145) 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 : 7,566,728

DATED : **July 28, 2009** **DRAFT**

INVENTOR(S) : Teshima 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 544 days

Delete the phrase "by 544 days " and insert – by 1145 days-- .

Day : Monday
Date: 9/20/2010

PALM INTRANET

Time: 09:28:55

PTA Calculations for Application: 10/508339			
Application Filing Date:	10/25/2004	PTO Delay (PTO):	642
Issue Date of Patent:	07/28/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	102
Post-Issue Petitions:	0	Total PTA (days):	1145
PTO Delay Adjustment:	605		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	09/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	601		
66.5	07/08/2009	PTA 36 MONTHS	67		
66	07/28/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
65	06/29/2009	EXPORT TO FINAL DATA CAPTURE			
64	06/26/2009	DISPATCH TO FDC			
63	06/22/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
62	06/22/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
62	06/22/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
61	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
61	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		34	
60	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
60	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	38		
59	04/28/2009	PETITION ENTERED			
58	05/01/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
57	04/28/2009	ISSUE FEE PAYMENT VERIFIED			
56	04/28/2009	ISSUE FEE PAYMENT RECEIVED			
55	03/04/2009	FINISHED INITIAL DATA CAPTURE			
54	02/03/2009	EXPORT TO INITIAL DATA CAPTURE			
53	02/23/2009	MAIL NOTICE OF ALLOWANCE			
52	01/22/2009	ISSUE REVISION COMPLETED			

51	02/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	02/23/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
49	01/22/2009	DOCUMENT VERIFICATION			
48	02/23/2009	NOTICE OF ALLOWABILITY			
47	02/23/2009	DATE FORWARDED TO EXAMINER			
47	02/23/2009	DATE FORWARDED TO EXAMINER			
46	01/15/2009	SUPPLEMENTAL RESPONSE		38	33
41	01/22/2009	CASE DOCKETED TO EXAMINER IN GAU			
37	01/11/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	01/16/2009	DATE FORWARDED TO EXAMINER			
35	01/15/2009	SUPPLEMENTAL RESPONSE			
34	01/05/2009	DATE FORWARDED TO EXAMINER			
33	12/08/2008	AMENDMENT AFTER FINAL REJECTION			
32	09/12/2008	MAIL FINAL REJECTION (PTOL - 326)			
31	09/12/2008	FINAL REJECTION			
30	07/12/2008	DATE FORWARDED TO EXAMINER			
29	06/18/2008	RESPONSE AFTER NON-FINAL ACTION			
28	03/18/2008	MAIL NON-FINAL REJECTION			
27	03/13/2008	NON-FINAL REJECTION			
26	02/06/2008	DATE FORWARDED TO EXAMINER			
25	12/26/2007	RESPONSE AFTER NON-FINAL ACTION		64	23
24	12/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	07/23/2007	MAIL NON-FINAL REJECTION	575		-1
22	07/17/2007	NON-FINAL REJECTION			
21	07/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	05/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	10/14/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	10/25/2004	MISCELLANEOUS INCOMING LETTER			
10	10/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	10/25/2004	REFERENCE CAPTURE ON IDS			
7	02/28/2005	CLEARED BY OIPE CSR			
6	02/18/2005	CLEARED BY OIPE CSR			
5	02/18/2005	CLEARED BY OIPE CSR			
4	10/25/2004	371 COMPLETION DATE			

3	02/08/2005	APPLICATION DISPATCHED FROM OIPE			
2	02/08/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/25/11

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10508368 Patent No.: 7612354

CofC mailroom date: 2/15/11

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

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

George Y Eyre 2/28/11
SPE, AU 2878

SPE Art Unit

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7154115	2006-12-26	10/508,506	2004-09-21	

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	/David Garrod/	Date (YYYY-MM-DD)	2011-05-23
Name	David Garrod, Ph.D., Esq.	Registration Number	35149

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
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In re Patent No. 7154115
Issue Date: December 26,2006
Application No. 10508506
Filed: September 21,2004
Attorney Docket No. D5116-00030

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

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

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

APR - 2 2012

JAMES R. FREDERICK
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building 5
755 Main Street, P.O. Box 224
Monroe, CT 06468

In re Application of: Mitchell C. Tschantz, et al.	:	SUA SPONTE EXERCISE
Application No. 10/508,578	:	OF
Filed: March 22, 2006	:	SUPERVISORY REVIEW
For: INFLATABLE DUNNAGE BAG WITH PROTECTED INFLATOR VALVE		

A sua sponte review of the above-noted application file has been conducted. As a result, it has been determined that the Notice of Abandonment mailed January 13, 2010, was sent in error. The purpose of this communication is to correct this error and clarify the record.

A review of the record reveals that a Final Office Action was mailed on July 9, 2009. Applicant filed a 3-month extension of time with a Certificate of Mailing/Transmission on Monday, January 11, 2010. Along with the extension, applicant also timely filed a Request for Continued Examination (RCE) and an amendment in response to the above-noted Final Office Action. A Notice of Abandonment was mailed on January 13, 2010. Therefore, the Notice of Abandonment was sent in error.

Accordingly, the Notice of Abandonment sent on January 13, 2010 is hereby **VACATED**, the holding of abandonment is **WITHDRAWN,** and Applicant's RCE and amendment will be entered and forwarded to the Examiner for action on the merits.

Any questions regarding this decision should be directed to SPE Glenn Dayoan at (571) 272-6659.

David Talbott, Director
Technology Center 3600
(571) 272-5150

DGD/snm: 3/26/2012
SM

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Paper No.

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 Tower Blvd.
Suite 1200
DURHAM NC 27707

MAILED

DEC 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,824,854 :	
Issue Date: November 2, 2010 :	
Application No. 10/508,639 :	
Inventor: Arai et al. :	DECISION ON PETITION
Filed: September 17, 2004 :	PURSUANT TO
Attorney Docket No. 1680/51 :	37 C.F.R. § 1.182
Title: METHOD OR APPARATUS FOR :	
RECOVERING MICROMATERIAL :	

This is a decision on the petition filed on December 15, 2011, pursuant to 37 C.F.R. § 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/508,639 matured into U.S. Patent No. 7,824,854 on November 2, 2010. The electronic records further reveal that on that same date, the Patent Grant was mailed to the address of record. However, Petitioner requests a duplicate, asserting that the Letters Patent has been lost. Receipt of the $400 petition fee is acknowledged.

The petition is **GRANTED. The Publishing Division is directed to issue a duplicate Letters Patent.** The Publishing Division (which may be reached at 571-272-4200) will be made aware of this decision in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1]

Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

October 27, 2010

Raymond N. Russell, PhD.
Calfee, Halter & Griswold LLP
800 Superior Ave., Ste. 1400
Cleveland, OH 44114

Patent No.: 7,731,740 B2
Application No.: 10/508,739
Inventor(s): Antoine LaFont, et al.
Issued: June 8, 2010
Title: **POLYMER-BASED STENT ASSEMBLY**

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.

A petition under C.F.R. 1.182 is, required to correct the alleged error in an inventor's name/address, since an inventor's address is printed in accordance with the Declaration or the PTOL-85B (Issue Fee Transmittal), in file at the time of payment of the base issue fee. The Patent and Trademark Office did not make the error in the printing of the patent. An inventor's address is a matter not affecting the validity of technical subject mater of the patent, and since inventors often move both before the issuance of the patent and afterwards, no correction is in order under the provision of Rule 1.323, unless a petition under 1.18

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

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 1.182 should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-0460 (voice)
(571) 270-9892 (fax)

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Kobayashi et al.	:	
Application No. 10/508,861	:	ON APPLICATION FOR
Filed: September 24, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. Q83700	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705, filed June 10, 2011. Applicants submit that the patent term adjustment to be indicated on the patent is three hundred ninety-six (396) days, not one hundred five (105) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants disclose a 13 day period of Applicant delay associated with the submission of documents on January 26, 2011, after the mailing of a notice of allowance on January 10, 2011.

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). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay

under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 applicant otherwise requests correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the

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

mailing of the Notice of Allowance is ninety-one (91) days. A copy of the updated PAIR screen, showing the determination, is enclosed.

On March 17, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 105 days.

Applicants disclose an additional period of Applicant delay associated with the submission of documents on January 26, 2011, after the mailing of a notice of allowance on January 10, 2011. However, the reduction should be 14 days, not 13 days as calculated by applicants.

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

A notice of allowance was mailed on January 10, 2011. Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 14 days, counting the number of days in the period beginning on January 26, 2011, the date documents were submitted, and ending on and including February 8, 2011, the date the Office mailed correspondence addressing the January 26, 2011 submission. Accordingly, a period of 14 days will be entered in connection with the filing of documents on January 26, 2011.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **ninety-one (91) days** - 488 days of Office delay - 397 (48 + 91 + 92 + 90 + 62 + 14) days of Applicant delay.

The $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b) will be charged to applicants' deposit account.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation for Application No. 10/508,861

Patent eBusiness

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

Patent Information

Patent Guidance and General Info
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- Employee & Office Directories
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10/508,861 METAL COMPLEX AND ORGANIC ELECTROLUMINESCENT DEVICE Q83700

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Foreign Priority | Published Documents | Address & Attorney/Agent | Display References

Patent Term Adjustment

Filing or 371(c) Date:	09-24-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	488
A Delays:	488	PTO Manual Adjustments:	-14
B Delays:	0	Applicant Delays:	383
C Delays:	0	Total PTA Adjustments:	91

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
111	07-15-2011	Adjustment of PTA Calculation by PTO		14	0
103	03-17-2011	Mail Notice of Allowance			0
102	03-14-2011	Issue Revision Completed			0
101	03-14-2011	Allowed Case Returned to the Examiner for Clerical Processing			0
99	03-11-2011	Document Verification			0
98	03-14-2011	Notice of Allowance Data Verification Completed			0
97	03-11-2011	Allowability Notice			0
96	02-28-2011	Information Disclosure Statement considered			0
95	03-03-2011	Finished Initial Data Capture			0
94	02-28-2011	Information Disclosure Statement (IDS) Filed			0
93	02-28-2011	Request for Continued Examination (RCE)			0
92	03-02-2011	Disposal for a RCE / CPA / R129			0
91	02-28-2011	Information Disclosure Statement (IDS) Filed			0
90	02-28-2011	Workflow - Request for RCE - Begin			0
89	02-08-2011	Email Notification			0
88	02-08-2011	Mail Miscellaneous Communication to Applicant			0
87	02-02-2011	Miscellaneous Communication to Applicant - No Action Count			0
86	02-02-2011	Pubs Case Remand to TC			0
85	01-10-2011	Export to Initial Data Capture			0
84	01-11-2011	Electronic Review			0
83	01-10-2011	Email Notification			0
82	01-10-2011	Email Notification			0
81	01-10-2011	Mail Examiner's Amendment			0
80	01-10-2011	Mail Notice of Allowance			0
79	01-06-2011	Issue Revision Completed			0

78	01-05-2011	Allowed Case Returned to the Examiner for Clerical Processing		0
77	01-05-2011	Document Verification		0
76	01-05-2011	Notice of Allowance Data Verification Completed		0
75	01-05-2011	Examiner's Amendment Communication		0
74	01-03-2011	Allowability Notice		0
71	12-20-2010	Date Forwarded to Examiner		0
70	12-20-2010	Amendment after Final Rejection	62	66
69	12-20-2010	Request for Extension of Time - Granted		0
68	07-20-2010	Electronic Review		0
67	07-19-2010	Email Notification		0
66	07-19-2010	Mail Final Rejection (PTOL - 326)		0
65	07-14-2010	Final Rejection		0
64	05-07-2010	Date Forwarded to Examiner		0
63	04-27-2010	Response after Non-Final Action	90	60
62	04-27-2010	Request for Extension of Time - Granted		0
61	03-30-2010	Case Docketed to Examiner in GAU		0
60	10-27-2009	Mail Non-Final Rejection		0
59	10-26-2009	Non-Final Rejection		0
58	08-21-2009	Information Disclosure Statement considered		0
57	08-21-2009	Information Disclosure Statement considered		0
56	08-21-2009	Information Disclosure Statement (IDS) Filed		0
55	08-21-2009	Reference capture on IDS		0
54	08-21-2009	Information Disclosure Statement (IDS) Filed	0	46
53	08-24-2009	Date Forwarded to Examiner		0
52	08-21-2009	Amendment Submitted/Entered with Filing of CPA/RCE		0
47	08-24-2009	Date Forwarded to Examiner		0
46	08-21-2009	Request for Continued Examination (RCE)		39
45	08-24-2009	Disposal for a RCE / CPA / R129		0
44	08-21-2009	Information Disclosure Statement (IDS) Filed		0
43	08-21-2009	Workflow - Request for RCE - Begin		0
41	01-28-2009	Mail Advisory Action (PTOL - 303)		0
40	01-24-2009	Advisory Action (PTOL-303)		0
39	01-21-2009	Notice of Appeal Filed	92	35
38	01-22-2009	Date Forwarded to Examiner		0
37	01-21-2009	Amendment after Final Rejection		0
36	01-21-2009	Request for Extension of Time - Granted		0

35	07-21-2008	Mail Final Rejection (PTOL - 326)			0
34	07-20-2008	Final Rejection			0
33	04-22-2008	Certified Translation of Foreign Priority Document			0
32	05-09-2008	Date Forwarded to Examiner			0
31	04-22-2008	Response after Non-Final Action		91	29
30	04-22-2008	Request for Extension of Time - Granted			0
29	10-22-2007	Mail Non-Final Rejection			0
28	10-18-2007	Non-Final Rejection			0
27	10-04-2007	Case Docketed to Examiner in GAU			0
26	08-17-2007	Date Forwarded to Examiner			0
25	08-14-2007	Response to Election / Restriction Filed		48	23
24	08-14-2007	Request for Extension of Time - Granted			0
23	03-27-2007	Mail Restriction Requirement	488		11
22	03-23-2007	Restriction/Election Requirement			0
21	07-06-2006	Correspondence Address Change			0
20	02-15-2006	IFW TSS Processing by Tech Center Complete			0
19	06-07-2005	Case Docketed to Examiner in GAU			0
18	05-19-2005	Case Docketed to Examiner in GAU			0
17	09-24-2004	Request for Foreign Priority (Priority Papers May Be Included)			0
15	09-24-2004	Preliminary Amendment			0
14	05-12-2005	Transfer Inquiry to GAU			0
13	04-05-2005	Cleared by OIPE CSR			0
12	03-28-2005	Cleared by OIPE CSR			0
11	09-24-2004	371 Completion Date			0
10	03-17-2005	Application Return from OIPE			0
9	03-17-2005	Notice of DO/EO Acceptance Mailed			0
8	03-17-2005	Application Return TO OIPE			0
6	03-17-2005	Application Return from OIPE			0
5	03-17-2005	Application Return TO OIPE			0
3	03-16-2005	Application Dispatched from OIPE			0
2	03-17-2005	Notice of DO/EO Acceptance Mailed			0
1	09-24-2004	Initial Exam Team nn			0
0.5	03-24-2003	International Filing date			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*

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

MAILED
APR 16 2012
OFFICE OF PETITIONS

In re Application of
Demuth et al.
Application No 10/508,932
Filed: September 24, 2004
Attorney Docket No.1-5257/D2002-07

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 29, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 23, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 24, 2009. A Notice of Abandonment was mailed on May 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1634 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.

Charlema Grant
Attorney Advisor
Office of Petitions

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Birch Stewart Kolasch Stewart
PO Box 747
Falls Church Va 22040-0747

In re Patent No. 7,439,049 Bozonnet et al Issue Date: October 21, 2008 Application No. 10/509,024 Filed: September 27, 2004 Attorney Docket No. 2121-0183PUS1 Title: Nucleic Acid Molecules Coding For a Dextran-Saccharase Catalysing the Synthesis of Dextran With Alpha 1, 2 Osidic Side Chains	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF 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
Adjusted PTA Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,439,049

DATED : **10/21/2008** **DRAFT**

INVENTOR(S) : Bozonnet 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 301 days

Delete the phrase "by 301 days" and insert – by 1131 days--

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

Application Number*: 10509024 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10509024

Application Filing Date	09/27/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	10/21/2008	Non-Overlapping USPTO Delays:	429
A Delays	429	PTO Manual Adjustment	830
B Delays	0	Applicant Delay (APPL)	128
C Delays	0	Total PTA (days)	1131

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
87	12/06/2011		P028	Adjustment of PTA Calculation by PTO	830		0
86	09/29/2011		P028	Adjustment of PTA Calculation by PTO		589	0
85	09/29/2011		P028	Adjustment of PTA Calculation by PTO	589		0
79	10/21/2008	10/03/2008	PTAC	Patent Issue Date Used in PTA Calculation	18		63
79.5	10/01/2008	09/27/2007	PTA36M	PTA 36 Months	0		0
78	09/19/2008		EFDC	Export to Final Data Capture			0
77	09/18/2008		D1935	Dispatch to FDC			0
76	09/17/2008		QURF	Workflow - Query Request - Finish			0
75	08/29/2008		EML_NTR	Email Notification			0
74	08/29/2008		MM327	Mail Miscellaneous Communication to Applicant			0
73	08/26/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
72	08/19/2008		PUBTC	Pubs Case Remand to TC			0
71	08/19/2008		QURI	Workflow - Query Request - Begin			0
70	08/19/2008		EML_NTR	Email Notification			0
69	08/19/2008		MM327	Mail Miscellaneous Communication to Applicant			0
67	08/13/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
65	06/04/2008		FIDC	Finished Initial Data Capture			0
64	06/04/2008		PILS	Application Is Considered Ready for Issue			0
63	06/03/2008		N084	Issue Fee Payment Verified			0
62	06/03/2008		IFEE	Issue Fee Payment Received			0
66	05/30/2008		M844	Information Disclosure Statement (IDS) Filed		82	69
61	05/23/2008		EML_NTR	Email Notification			0
60	05/23/2008		MM327	Mail Miscellaneous Communication to Applicant			0
59	05/20/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
58	04/10/2008		IDSC	Information Disclosure Statement considered			0
57	04/10/2008		M844	Information Disclosure Statement (IDS) Filed		44	60
56	04/10/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
55	03/15/2008		CRFT	Sequence Forwarded to Pubs on Tape			0
53	03/05/2008		ELC_RVW	Electronic Review			0
49	03/04/2008		MN/=.	Mail Notice of Allowance			0
48	02/25/2008		IREV	Issue Revision Completed			0
47	02/25/2008		DVER	Document Verification			0
46	02/25/2008		N/=.	Notice of Allowance Data Verification Completed			0
45	02/25/2008		EX.A	Examiner's Amendment Communication			0
44	02/25/2008		CNTA	Allowability Notice			0
43	12/29/2007		FWDX	Date Forwarded to Examiner			0
42	12/26/2007	12/24/2007	A.NE	Amendment after Final Rejection		2	38
41	09/25/2007		ELC_RVW	Electronic Review			0
40	09/24/2007		EML_NTF	Email Notification			0
39	09/24/2007		MW/AC	Mail Notice of Withdrawn Action			0
38	09/24/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
37	09/17/2007		CTFR	Final Rejection			0
36	09/17/2007		W/AC	Withdrawing/Vacating Office Action Letter			0
35	08/02/2007		PST_CRD	Mail Post Card			0
34	07/25/2007		EML_NTF	Email Notification			0
33	07/25/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
32	07/20/2007		CTFR	Final Rejection			0
31	07/05/2007		FWDX	Date Forwarded to Examiner			0
30	06/27/2007		A...	Response after Non-Final Action			0
29	06/27/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
26	03/30/2007		ELC_RVW	Electronic Review			0
25	03/29/2007		EML_NTF	Email Notification			0
24	03/27/2007		MCTNF	Mail Non-Final Rejection			0
23	03/19/2007		CTNF	Non-Final Rejection			0
22	02/21/2007		FWDX	Date Forwarded to Examiner			0
21	02/06/2007		ELC.	Response to Election / Restriction Filed			0

20	01/19/2007		ELC_RVW	Electronic Review		0
19	01/17/2007		EML_NTF	Email Notification		0
18	01/12/2007	11/27/2005	MCTRS	Mail Restriction Requirement	411	-1
17	01/05/2007		CTRS	Restriction/Election Requirement		0
16	07/03/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
11	07/03/2006		DOCK	Case Docketed to Examiner in GAU		0
15	06/20/2006		LET.	Miscellaneous Incoming Letter		0
14	06/20/2006		A.PE	Preliminary Amendment		0
10	06/20/2006		L194	Cleared by OIPE CSR		0
8	06/13/2006		OIPE	Application Dispatched from OIPE		0
7	06/13/2006		M903	Notice of DO/EO Acceptance Mailed		0
5	06/01/2006		CRFE	CRF Is Good Technically / Entered into Database		0
12	09/27/2005		A.PE	Preliminary Amendment		0
6	06/05/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT		0
4	04/19/2005		M922	Sequence disclosure problems		0
3	04/08/2005		MPTGR	Mail-Petition Decision - Granted		0
28	09/27/2004		IDSC	Information Disclosure Statement considered		0
27	09/27/2004		WIDS	Information Disclosure Statement (IDS) Filed		0
9	09/27/2004		371COMP	371 Completion Date		0
2	09/27/2004		PET.	Petition Entered		0
1	09/27/2004		IEXX	Initial Exam Team nn		0

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MAILED
AUG 05 2011
OFFICE OF PETITIONS

In re Application of Xu et al. Application No. 10/509,030 Filed: July 18, 2005 Attorney Docket No. 4533-0112PUS1	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 22, 2011.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed via Customer Number however the request does not designate a Customer Number to be withdrawn by. The request was signed by James Slattery on behalf of all the practitioners of record.

Further, the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b). 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.

Since the current request does not properly withdraw the appointed practitioners and change the correspondence address to the proper party, the request cannot be approved at this time. Any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed and specify either an assignee of the entire interest or first named inventor as the new correspondence address.

There is an outstanding Office action mailed July 18, 2011 that requires a reply from the applicant.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

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

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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FALLS CHURCH VA 22040-0747

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SEP 06 2011

OFFICE OF PETITIONS

In re Application of
Xu et al.
Application No. 10/509,030
Filed: July 18, 2005
Attorney Docket No. 4533-0112PUS1

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 August 17, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by James M. Slattery on behalf of all attorneys of record who are associated with Customer Number 02292.

All attorneys/agents associated with the Customer Number 02292 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor at the address indicated below.

Currently, there is an outstanding Office action mailed July 18, 2011 that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Zhaochang Xu
1211/9 West Beijing Road
Shanghai, 200040 China

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Patent No. 7,648,763	:	DECISION ON REQUEST
Heim et al.	:	FOR
Issue Date: 01/19/2010	:	RECONSIDERATION OF
Application No. 10/509,178	:	PATENT TERM ADJUSTMENT
Filed: 09/27/2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
2732-146	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 19, 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 six hundred nineteen (619) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by four hundred thirty-four (434) 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 four hundred

thirty-four (434) days is **GRANTED to the extent indicated herein.**

As to the "B" delay period, the over three year period begins on September 29, 2007, the day after the date three years after September 28, 2004, the date the application commenced the national stage under 35 U.S.C. 371(b). 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 ends on January 28, 2009, and is 488 days. See 35 U.S.C. 154(b)(1)(B)(i). Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On July 29, 2008, a notice of appeal was filed. On January 29, 2009, 184 days after the date the notice of appeal was filed, the RCE was filed. Accordingly, the excluded period for appeal is 184 days, and the "B" delay period is 304 (488 - 184) days.[1]

The patent term adjustment at the time of issuance of the patent is 434 (255 days of Office delay + 304 days of over three years delay - 125 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

[1] The Office notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.

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 four hundred thirty-four **(434)** 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 : 7,648,763 B2

DATED : **Jan. 19, 2010** **DRAFT**

INVENTOR(S) : Heim 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 364 days.

Delete the phrase "by 364 days" and insert – by 434 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110502

DATE : May 2, 2011

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 10/509,192

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.

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

Comments:

OK to enter.

KC 5/2/11 **SPE:** Michael Marcheschi **Art Unit** 1775

aUNITED STATES PATENT AND TRADEMARK OFFICE

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

ROTHWELL, FIGG, ERNST & MANBECK, PC
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Patent No. 7,651,981 :
Issue Date: January 26, 2010 :
Application No. 10/509,281 :
Filed: April 12, 2005 :
Attorney Docket No. 2953-224 :

ON PETITION

This is a decision on the petition filed June 25, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. 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/
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

DATE : 11/22/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10509282 Patent No.: 7333623

CofC mailroom date: 11/14/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should item (63) PCT Filed: Feb. 17, 2003 be inserted?**

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X Approved — **All** changes apply.

❑ **Approved in Part** — Specify below which changes **do not** apply.

❑ **Denied** — State the reasons for denial below.

Comments: Okay to enter in full.

/Walter F. Briney III/ — 2614

Primary Examiner — **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/509,282	28 September, 2004	NEUMANN, JOACHIM	

		EXAMINER	
DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005		Walter F. Briney III	
		ART UNIT	PAPER
		2614	20120117

DATE MAILED:

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

Commissioner for Patents

Certificate of correction has been approved.

/Walter F Briney III/
Primary Examiner
Art Unit: 2614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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WINSTEAD P.C.
PO BOX 50784
DALLAS, TX 75201

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of
Jas Pal BADYAL, et *al.*
Application No. 10/509,295
Filed: August 30, 2005
Attorney Docket No. **42965-P040US**

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 August 5, 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 July 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1715 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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DEC 03 2010

OFFICE OF PETITIONS

MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

In re Patent No. 7,625,866	:	
Issue Date: December 1, 2009	:	
Application No. 10/509,421	:	DECISION ON PETITION
Filed: September 26, 2003	:	
Attorney Docket No. 06478.1494	:	

This is a decision on the petition under 37 CFR 1.182 filed October 26, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish non receipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the non received Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish non receipt of the original Letters patent. Accordingly, Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735.

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person at (703) 756-1555 in the Office of Data Management.

A copy of this decision is being sent to the Office of Data Management for issuance of a duplicate Letters Patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell, Randolph Square, 9th Floor, Room D33 (Fax No. (571) 270-9958)

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of
Jeroen Arnoldus Leonardus Raaymakers :
Application No. 10/509,453 :
Filed: September 28, 2004 :
Attorney Docket Number: NL020233 :

ON PETITION

This is a decision on the petition, filed September 27, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned September 13, 2010 for failure to pay the issue fee in response to the Notice of Allowance mailed on June 10, 2010. Accordingly, the Notice of Abandonment was mailed on September 24, 2010.

The issue fee in the amount of $1510.00, publication fee in the amount of $300 and the petition fee in the amount of $1620 have been charged to deposit account no. 14-1270.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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 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.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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MERCK
P O BOX 2000
RAHWAY, NJ 07065-0907

Mail Date: 08/04/2010

Applicant	: Laurie A. Castonguay	: DECISION ON REQUEST FOR
Patent Number	: 7667053	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/509,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **546** 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of
Bum Young Myoung
Application No. 10/509,819
Filed: September 30, 2004
Attorney Docket No. P/2803-59

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 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 Restriction Requirement mailed March 12, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 13, 2008. A Notice of Abandonment was mailed on September 25, 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 election , (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the election 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 1791 for appropriate action by the Examiner in the normal course of business on the reply received May 13, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : August 11,2011

In re Application of :

Motoo Asai

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10509899

Filed : 29-Jun-2005

Attorney Docket No : 259189US90PCT

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 11,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2814 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10509899
Filing Date	29-Jun-2005
First Named Inventor	Motoo Asai
Art Unit	2814
Examiner Name	BILKIS JAHAN
Attorney Docket Number	259189US90PCT
Title	SUBSTRATE FOR MOUNTING IC CHIP

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Akihiro Yamazaki/
Name	Akihiro Yamazaki
Registration Number	46155

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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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Kia Silverbrook
Silverbrook Research Pty Ltd
393 Darling Street
Balmain NSW 2041
Australia

MAILED
AUG 20 2010
PCT LEGAL ADMININSTRATION

In re Application of Silverbrook U.S. App No.: 10/509,999 Attorney's Docket No.: YU184NPUS For: WIDE FORMAT PAGEWIDTH INKJET PRINTER	: : DECISION ON : PETITION : UNDER : 37 CFR 1.78(a)(3)

This is a petition decision on petition under 37 CFR 1.78(a)(3), filed 09 April 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for benefit of priority U.S. application 10/120,351, set forth in the amendment filed 08 April 2010.

The petition is **DISMISSED**.

The present 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 in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not satisfy item (2) in that the proper surcharge has not been included. Applicant included a payment of $130. However, before the petition under 37 CFR 1.78(a)(3) can be granted, a proper surcharge of $1410 must be paid as set forth in 37 CFR 1.17(t). Therefore, applicant must pay $1280.

Any inquiries concerning this decision may be directed to Debra Brittingham at (571) 272-3280. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAILED

APR 13 2011

PCT LEGAL ADMINISTRATION

Kia Silverbrook
Silverbrook Research Pty Ltd
393 Darling Street
Balmain NSW 2041
Australia

In re Application of	:
Silverbrook	: DECISION ON
U.S. App No.: 10/509,999	: PETITION
Attorney's Docket No.: YU184NPUS	: UNDER
For: WIDE FORMAT PAGEWIDTH INKJET PRINTER	: 37 CFR 1.78(a)(3)

This is a petition decision on renewed petition under 37 CFR 1.78(a)(3), filed 07 September 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for benefit of priority U.S. application 10/120,351, set forth in the amendment filed 08 April 2010.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international 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 international 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 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 any 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Debra Brittingham at (571) 272-3280. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2853 for appropriate action, 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.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Giancarlo Rizzoli, et. al.	:	
Application No. 10/510,028	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW FROM
Attorney Docket No. 060960-5053-US	:	RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed November 22, 2010.

The request is **MOOT**.

A review of the file record indicates that power of attorney to Customer Number 21186 was revoked by the assignee of the above application on January 3, 2011. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is unnecessary.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,567,712 :
Issue Date: July 28, 2009 :
Application No. 10/510,078 : ON PETITION
Filed: August 25, 2006 :
Attorney Docket Number: 267-88 :

This is a decision on the petition, filed September 15, 2010, requesting the issuance of a duplicate Letters Patent for the above-identified application, which is being treated under 37 CFR 1.182.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about July 28, 2009, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

As the petition and a fee of $400.00 has been received, the petition is granted.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person (Fax – (571) 270-9764)
Kimberly Terrell (Fax – (571) 270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ABELMAN, FRAYNE & SCHWAB
10th Floor
666 Third Ave.
New York, NY 10017-5621

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of :
Andrzej Niklewski :
Application No. 10/510,163 : DECISION ON PETITION
Filed: October 1, 2004 :
Attorney Docket No. 206,676 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2010, to revive the above-identified application.

The petition is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Robert B. Smith appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **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 November 21, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 22, 2007. A Notice of Abandonment was subsequently mailed on June 19, 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 (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3)

provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on February 22, 2007. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as ABELMAN, FRAYNE & SCHWAB was the counsel of record at the time of abandonment, they should explain why this application became abandoned while under their control. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Further, statements are required from ABELMAN, FRAYNE & SCHWAB and any responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of

inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over three years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Further correspondence with respect to this matter should be 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 decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ABELMAN, FRAYNE & SCHWAB
10TH FLOOR
666 THIRD AVE.
NEW YORK, NY 10017-5621

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Andrzej Niklewski	:	
Application No. 10/510,163	:	ON PETITION
Filed: October 1, 2004	:	
Attorney Docket No.: 206,676	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 21, 2006. A Notice of Abandonment was mailed on June 19, 2007. On August 27, 2010 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed October 20, 2010. In response, on January 6, 2011, the present petition was filed, an explanation of the unintentional delay and an appropriate 1-month petition for extension of time.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Accordingly, 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) under 37 CFR 1.114 and fee of $810; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3651 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,434,490 :
Issue Date: October 14, 2008 :
Application No. 10/510,185 : DECISION ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 86101(308246) :

This is a decision on the Petition For Correction of Assignee Name Under 37 C.F.R. § 3.81, filed July 26, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. 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 a clerical error. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Konami Corporation"

to:

--Konami Digital Entertainment Co., Ltd.--

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 Petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,434,490.

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

Date Mailed : 07/11/11

Patent No. :7879015 B2
Patent Issued : 02/01/11
Docket No. : **30056/38396A**

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.

Title page, Field (*) Notice, The corrections are disapproved, since the Terminal Disclaimer was filed in this Application 11/12/2006. **"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

Marshall, Gerstein & Borun LLP (Hollister)
233 South Wacker Drive
6300 Willis Tower
Chicago IL 60606

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/18/11 Paper No.: _____

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10510365 Patent No.: 7879015

CofC mailroom date: 03/07/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Deleted: ¶

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.
- X **Denied** — State the reasons for denial below.

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Deleted: _____

Comments: **The corrections are disapproved, since the TD was filed in this Application 11/12/2006**

Deleted: SPE Art Unit

Zalukaeva 7/12/2011

Tatyana Zalukaeva, SPE AU 3761

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PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/27/11

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10510365 Patent No.: 7879015

CofC mailroom date: 07/22/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

XApproved	**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

/Tatyana Zalukaeva/

SPE Art Unit 3761

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

OCT 08 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE / ANN ARBOR
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR, MI 48104

In re Patent No. 7,766,631	:	
Issue Date: August 3, 2010	:	
Application No. 10/510,417	:	NOTICE
Filed: April 21, 2005	:	
Attorney Docket No. 14139--3		

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110909

DATE : September 09, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,936,710

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:

/DWAYNE BOST/
Supervisory Patent Examiner.Art Unit 2617

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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MORGAN & FINNEGAN TRANSITION TEAM
C/O LOCKE LORD BISSELL & LIDDELL
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of
Tapio Korpinen
Application No. 10/510,568
Filed: May 8, 2004
Attorney Docket No.: 6009-4716

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 11, 2010 for failure to timely file a reply to the Final Office action mailed May 10, 2010 which set a three (3) month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 2, 2011.

The Notice of Appeal filed February 8, 2011, with the instant petition, in response to the Final Office Action, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being 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.

This matter is being referred to Technology Center 1734 for processing of the Notice of Appeal.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

RACHEL S. WATT
HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET, SUITE 100
BUFFALO, NY 14202-4040

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MAILED

FEB 28 2011

OFFICE OF PETITIONS

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

In re Application of	:	
Wenlong Deng	:	
Application No. 10/510,617	:	ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 53624/DBP/C306	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed April 29, 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 June 30, 2010. A Notice of Abandonment was mailed on December 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b), (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

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

/Kimberly Inabinet/

Kimberly Inabinet
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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Patent of El-Hibri	:	DECISION ON REQUEST
Patent No. 7,456,248	:	FOR
Issue Date: November 25, 2008	:	RECONSIDERATION OF
Application No. 10/510,707	:	PATENT TERM ADJUSTMENT
Filed: June 30, 2005	:	and
Atty Docket No. 260220US0XPCT	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred eighty-three (483) 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 four hundred eighty-three (483) days is **GRANTED to the extent indicated herein.**

Patentee is informed that the Three Year Delay period is triggered by the application's commencement date, not the 371 fulfillment date. The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is April 15, 2002. While early processing was requested, requirements were not met. Thirty months from the priority date is October 15, 2004, which is the date of commencement. Accordingly, the period of adjustment under § 1.702(b) is 407 days, counting the number of days beginning on the day after three years after the application's commencement

date, October 16, 2007, and ending on November 25, 2008, when the patent issued. The Three Year Delay period is 407 days, not 148 days as patentee asserts.

As such, the patent term adjustment is seven hundred forty-two (742) days. The calculation is as follows: 408 days of A delay + 407 days of B delay - 73 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, 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 CFR 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 receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-two (742)** 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 : 7,456,248

DATED : **November 25, 2008** **DRAFT**

INVENTOR(S) : El-Hibri

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 335 days

Delete the phrase "by 335 days" and insert – by 742 days--

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Kurt Steinar Nyheim et al.	:	
Application No. 10/510,719	:	DECISION ON PETITION
Filed: May 16, 2005	:	
Attorney Docket No. **04180**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2011, to revive the above-identified application.

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 4, 2009, 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 5, 2009. *See* MPEP 1215.04.

The petition is hereby **GRANTED**.

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

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

This application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the reply received

JoAnne Burke
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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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application of :
Stuart Barnes, et al. :
Application No. 10/510,731 : ON PETITION
Filed: June 24, 2005 :
Attorney Docket No.: 17653.114a.2 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to timely pay the issue and publication fees on or before December 20, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 20, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 21, 2010. A Notice of Abandonment was subsequently mailed on January 4, 2011. On February 11, 2011, the present petition was filed.

Petitioner request that the application be revived for consideration of a Request for Continued Examination (RCE) under 37 CFR 1.114. However, in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply under 37 CFR 1.137(b) must be the payment of the issue fee or any outstanding balance thereof. Accordingly, the $1,510 issue fee is being charged to counsel's deposit account as authorized.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above-identified application is again allowed, petitioner may request that the issue fee paid on February 11, 2011, be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 2462 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-16-10

Paper No.: _____

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/516835 Patent No.: 7414068

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

FOR IFW FILES: Please check Reconsideration

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 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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 CofC filed on 3/26/10 contains nonelected/nonpatentable subject matter, which was canceled during prosecution.

See interview summary with Tanya Harkins on 3/27/08, wherein claims 10, 12, 15 and 18 were canceled and not allowed. Also see Notice of Allowability mailed 3/27/08, wherein claims 1, 3-5, 7-8 and 17 were the only claims allowed.

The CofC filed on 3/26/10 contains claims 10, 12, 15, and 18, which are not patentable claims. Therefore, the CofC is denied.

/Joseph K. McKane/
SPE

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : Aug. 31, 2010

Patent No. : 7,414,068 B2
Patent Issued : Aug. 19, 2008
Docket No. : 26393U
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 .

The alleged error(s) The CofC filed on 3/26/10 contains nonelected/nonpatentable subject matter, which was canceled during prosecution. Claims 10,12,15, and 18 were canceled and not allowed. Also see Notice of Allowability mailed 3/27/08, wherein claims 1, 3-5, 7-8 and 17 were the only claims allowed. The CofC filed on 3/26/10 contains claims 10,12,15, and 18, which are not patentable claims. Therefore, the CofC is denied.. the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 756-1542

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

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)
7096525	2006-08-29	10510902	2004-10-08	0014/1US

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	/Stephen Ashley/	Date (YYYY-MM-DD)	2011-10-12
Name	Stephen S. Ashley, Jr.	Registration Number	47394

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 7096525
Issue Date: August 29,2006
Application No. 10510902
Filed: October 8,2004
Attorney Docket No. 3101/1US

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

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

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

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of :
Brian L. Riise et al :
Application No. 10/511,109 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 10887-010US1

This is a decision on the petition, filed August 3, 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 March 12, 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 1796 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ELMAR REINHOLD BURCHARDT, M.D., P.H.D.
7 AVON ROAD
BEDFORD, MA 01730

MAILED
APR 04 2012
OFFICE OF PETITIONS

In re Application of	:	
Schohe-Loop et al.	:	
Application Number: 10/511225	:	
Filing or 371(c) Date: 07/11/2005	:	
Pat. Number: 7,320,977	:	ON PETITION
Issue Date: 01/22/2008	:	
Title of Invention:	:	
SUBSTITUTED	:	
2-PHENYL-3(2H)-PYRIDAZINONES	:	

This is a decision on the petition under 37 CFR § 1.377, to accept and record as timely a maintenance fee payment for the above-identified patent, filed February 29, 2012.

The petition is **dismissed**.

Background

The patent issued January 22, 2008. The three and one-half (3½) year maintenance fee, currently $565.00, could have been paid from January 22, 2011, through July 22, 2011, or with a surcharge during the period from July 23, 2011, to January 22, 2012. Petitioner did not do so. Accordingly, the patent expired January 23, 2012.

Petitioner files the present petition and asserts that the maintenance fee was paid by a credit card authorizing payment of the maintenance fee, filed via facsimile in this Office on August 31, 2011. Petitioner provides that while the credit card authorized payment of $530.00, petitioner also included on the form a request to charge any excess fees.

In support of this assertion, petitioner files a copy of the credit card authorization form.

Office records confirm receipt of $530.00 in this Office on August 31, 2011.

Applicable Law, Rules and Manual of Patent Examining Procedure ("MPEP")

37 CFR 1.366, Submission of maintenance fees, provides in relevant part:
(b) A maintenance fee and any necessary surcharge submitted for a patent must be submitted in the amount due on the date the maintenance fee and any necessary surcharge are paid. A

maintenance fee or surcharge may be paid in the manner set forth in § 1.23 or by an authorization to charge a deposit account established pursuant to § 1.25. Any payment or authorization of maintenance fees and surcharges filed at any other time will not be accepted and will not serve as a payment of the maintenance fee except insofar as a delayed payment of the maintenance fee is accepted by the Director in an expired patent pursuant to a petition filed under § 1.378.

The MPEP 509 discusses payment of fees to this Office, and direct our attention to 37 CFR 1.23, Method of payment. Section (b) authorizes payments by credit card, and states:

> (b) Payments of money required for United States Patent and Trademark Office fees may also be made by credit card, except for replenishing a deposit account. ***Payment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and is subject to collection of the fee. The Office will not accept a general authorization to charge fees to a credit card.*** If credit card information is provided on a form or document other than a form provided by the Office for the payment of fees by credit card, the Office will not be liable if the credit card number becomes public knowledge.
> Applicant files a copy of a check made payable to US Patent Office Renewal Service" in the amount of $125.00 dated July 7, 2005 and signed by the patentee.

(***Emphasis added***)

Analysis

Petitioner herein attempted to provide a general authorization to charge any excess fee to Petitioner's credit card; however, a general authorization only applies to a deposit account. As stated supra, "[p]ayment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and is subject to collection of the fee."

It is noted that petitioner herein is appearing in proper person (pro se). However, petitioner is advised that is his responsibility to either retain counsel to prosecute his application, or to familiarize himself with the laws, rules of practice and MPEP. An Applicant who elects to proceed in prosecuting his application without an attorney steps into the shoes of the attorney. The rules of practice do not diverge depending upon whether one is an attorney or an applicant appearing before this office in proper person. It is Applicant's obligation to inform himself about the obligations associated with prosecuting his application. See, California Med. Prods. V. Tecnol Med., 921 F.Supp 1219 (D. Del. 1995).
Applicable Law, Rules and MPEP

Finally, it is also noted that petitioner notes that he contacted the Inventor's Resource Center by phone and was assured that this approach was acceptable. However, again it is noted that it is the patent owner's responsibility to ensure timely payment of the maintenance fee, and that all

business with this Office should be conducted in writing, and that petitioner may not shift the burden of timely and properly filing the maintenance fee to this Office. Accord, 37 CFR 1.2.

Having failed to pay the maintenance fee by January 22, 2012, the patent thereafter expired on January 23, 2012. Once the patent expired, a petition to reinstate the patent, along with the maintenance fee and surcharge, must be submitted.

Conclusion

Petitioner failed to timely submit the maintenance fee. The petition is dismissed.

Petitioner is advised to file a petition stating that the delay in filing the maintenance fee was unintentional. The petition must be accompanied by the balance of the maintenance fee, and a surcharge of $1640.00. The petition must be filed promptly after Petitioner becomes aware that the patent is expired. Intentional delay in seeking the reinstatement of an expired patent precludes relief under the unintentional standard.

This file is being forwarded to Files Repository.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 20 2011
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In re Patent No. 7,972,809	:	
Issue Date : July 5, 2011	:	
Application No. 10/511,436	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. 081356-0224	:	

This is a decision on the petition filed August 22, 2011, 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 Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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CHICAGO IL 60661

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DEC 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Jeroen Anton Johan Leijten	:	
Application No. 10/511512	:	ON APPLICATION FOR
Filing or 371(c) Date: 10/14/2004	:	RECONSIDERATION OF
Attorney Docket Number: 24459US01	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. 1.705)," filed November 17, 2011. Applicants' request recalculation of the patent term adjustment calculation to 457 days, not 146 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 failing to calculate an adjustment of 309 days pursuant to 37 CFR 1.702(e), and (2) an adjustment on two (2) days pursuant to 37 CFR 1.704(b).

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 failing to calculate an adjustment of 309 days pursuant to 37 CFR 1.702(e), and (2) an adjustment on two (2) days pursuant to 37 CFR 1.704(b), is **GRANTED TO THE EXTENT INDICATED**.

On August 22, 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 146 days.

On November 17, 2011, applicants timely submitted the instant application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from 146 days, as indicated on the Determination of PTA mailed November 17, 2011, to an adjustment of 457 days. Applicant avers that the Office erred in failing to calculate an adjustment of 309 days pursuant to 37 CFR 1.702(e), in connection with the filing of a Notice of Appeal and subsequent mailing of a Notice of Allowance (154 days), and in connection with the filing of a Notice of Appeal and subsequent mailing of a Notice of Allowance (155 days). Applicant acknowledges that the current rule does not explicitly provide a patent term adjustment in this

[1] PALM records show that the Issue Fee was filed on November 17, 2011.

situation. Petition at p.3. Applicant, however, cites to proposed rules that would allow for a patent term adjustment in this situation. See, Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg. 18990, 18992 (April 6, 2011).

Applicant also asserts that the Office erred in calculating a reduction of two (2) days in connection with the filing of a reply on Monday, October 11, 2011, filed in reply to a non-final Office action mailed July 9, 2010.

Applicant's arguments have been carefully considered. As stated in the Notice of proposed rulemaking,

> The patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) and the patent term extension provisions of the Uruguay Round Agreements Act (URAA) each provide for patent term extension or adjustment if the issuance of the patent was delayed due to appellate review by the Board of Patent Appeals and Interferences (BPAI) or by a Federal court and the patent was issued pursuant to or under a decision in the review reversing an adverse determination of patentability. (Emphasis added).

Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg. 18990 (April 6, 2011

The current statute and rules of practice do not provide for an adjustment of the patent term in this situation. Petitioner acknowledges that the current rule does not explicitly provide a patent term adjustment in this situation. The petition is therefore not grantable.

However, it is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Applicant's 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.

As to Applicant's assertion that the Office erred in calculating a reduction of two (2) days in connection with the filing of a reply to an Office action on Monday, October 11, 2011, three months and two (2) days after the mail date of the Office action, Office records reveal that a reply to the non-final Office action mailed July 9, 2010, the was filed on Monday, October 11, 2010. The day or last day for filing a reply to the Office action (i.e. October 9, 2010), was either a Saturday, Sunday, or a Federal holiday within the District of Columbia. Accordingly, the period of reduction of two (2) days entered for the reply is not warranted and is being removed.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of one hundred forty-eight (148) days, subject to any terminal disclaimer.

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, 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 the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

PTA/PTE Information

Application Number*: 10511512 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10511512

Application Filing Date	10/14/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	347
A Delays	347	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	201
C Delays	0	Total PTA (days)	148

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
117	12/06/2011		P028	Adjustment of PTA Calculation by PTO	2	0	
104	08/22/2011	03/21/2011	MN/=.	Mail Notice of Allowance		89	
103	08/17/2011		C.AD	Correspondence Address Change		0	
102	08/16/2011		OAR	Office Action Review		0	
101	08/16/2011		OAR	Office Action Review		0	
100	08/16/2011		OAR	Office Action Review		0	
99	08/16/2011		IREV	Issue Revision Completed		0	
98	08/16/2011		DVER	Document Verification		0	
97	08/16/2011		N/=.	Notice of Allowance Data Verification Completed		0	
96	08/16/2011		DOCK	Case Docketed to Examiner in GAU		0	
95	08/12/2011		EX.R	Reasons for Allowance		0	
94	08/12/2011		EX.A	Examiner's Amendment Communication		0	
93	08/12/2011		CNTA	Allowability Notice		0	
92	06/02/2011		FWDX	Date Forwarded to Examiner		0	
90	06/01/2011		APBR	Appeal Brief Review Complete		0	
91	05/23/2011		AP.B	Appeal Brief Filed		0	
89	03/21/2011		N/AP	Notice of Appeal Filed		0	
88	03/09/2011		EML_NTR	Email Notification		0	
87	03/09/2011		MCTAV	Mail Advisory Action (PTOL - 303)		0	
86	03/07/2011		CTAV	Advisory Action (PTOL-303)		0	
85	02/23/2011		FWDX	Date Forwarded to Examiner		0	
84	02/21/2011		A.NE	Amendment after Final Rejection		0	
83	12/29/2010		PST_CRD	Mail Post Card		0	
82	12/21/2010		EML_NTF	Email Notification		0	
81	12/21/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
80	12/16/2010		CTFR	Final Rejection		0	
79	10/17/2010		FWDX	Date Forwarded to Examiner		0	
78	10/11/2010	10/09/2010	A...	Response after Non-Final Action		2 75	
77	07/09/2010		ELC_RVW	Electronic Review		0	
76	07/09/2010		EML_NTF	Email Notification		0	
75	07/09/2010		MCTNF	Mail Non-Final Rejection		0	
74	07/06/2010		CTNF	Non-Final Rejection		0	
72	05/19/2010		FWDX	Date Forwarded to Examiner		0	
69	05/19/2010		ABN9	Disposal for a RCE / CPA / R129		0	
73	05/18/2010		IDSC	Information Disclosure Statement considered		0	
71	05/18/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
70	05/18/2010		RCEX	Request for Continued Examination (RCE)		0	
68	05/18/2010		RCAP	Reference capture on IDS		0	
67	05/18/2010		M844	Information Disclosure Statement (IDS) Filed		0	
66	05/18/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
65	05/18/2010		BRCE	Workflow - Request for RCE - Begin		0	
64	05/04/2010		EML_NTR	Email Notification		0	
63	05/04/2010		MCTAV	Mail Advisory Action (PTOL - 303)		0	
62	04/30/2010		CTAV	Advisory Action (PTOL-303)		0	
61	04/18/2010		FWDX	Date Forwarded to Examiner		0	

60	04/15/2010		A.NE	Amendment after Final Rejection			0
59	02/18/2010		ELC_RVW	Electronic Review			0
58	02/18/2010		EML_NTF	Email Notification			0
57	02/18/2010	02/16/2010	MCTFR	Mail Final Rejection (PTOL - 326)	2		54
56	02/10/2010		CTFR	Final Rejection			0
55	12/01/2009		FWDX	Date Forwarded to Examiner			0
54	10/16/2009	07/28/2009	A...	Response after Non-Final Action		80	50
53	10/16/2009		XT/G	Request for Extension of Time - Granted			0
52	04/28/2009		ELC_RVW	Electronic Review			0
51	04/28/2009		EML_NTF	Email Notification			0
50	04/28/2009	11/26/2008	MCTNF	Mail Non-Final Rejection			45
49	04/24/2009		CTNF	Non-Final Rejection			0
48	02/25/2009		APBR	Appeal Brief Review Complete			0
47	02/25/2009		FWDX	Date Forwarded to Examiner			0
46	01/26/2009		AP.B	Appeal Brief Filed			0
45	11/26/2008	10/28/2008	N/AP	Notice of Appeal Filed		29	36
44	11/26/2008		XT/G	Request for Extension of Time - Granted			0
43	11/05/2008		EML_NTR	Email Notification			0
42	11/05/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
41	11/03/2008		CTAV	Advisory Action (PTOL-303)			0
40	10/18/2008		FWDX	Date Forwarded to Examiner			0
39	09/26/2008		A.NE	Amendment after Final Rejection			0
38	07/28/2008		ELC_RVW	Electronic Review			0
37	07/28/2008		EML_NTF	Email Notification			0
36	07/28/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
35	07/21/2008		CTFR	Final Rejection			0
34	05/16/2008		FWDX	Date Forwarded to Examiner			0
33	04/21/2008	01/22/2008	A...	Response after Non-Final Action		90	29
32	04/21/2008		XT/G	Request for Extension of Time - Granted			0
31	10/23/2007		ELC_RVW	Electronic Review			0
30	10/22/2007		EML_NTF	Email Notification			0
29	10/22/2007		MCTNF	Mail Non-Final Rejection			0
28	09/28/2007		CTNF	Non-Final Rejection			0
27	08/27/2007		FWDX	Date Forwarded to Examiner			0
25	08/27/2007		FWDX	Date Forwarded to Examiner			0
23	08/27/2007		ABN9	Disposal for a RCE / CPA / R129			0
26	08/22/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
24	08/22/2007		RCEX	Request for Continued Examination (RCE)			0
22	08/22/2007		BRCE	Workflow - Request for RCE - Begin			0
21	05/29/2007		C.ADB	Correspondence Address Change			0
20	05/22/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
19	05/18/2007		CTFR	Final Rejection			0
18	03/08/2007		FWDX	Date Forwarded to Examiner			0
16	03/07/2007		DOCK	Case Docketed to Examiner in GAU			0
17	02/28/2007		A...	Response after Non-Final Action			0
15	01/25/2007		DOCK	Case Docketed to Examiner in GAU			0
14	11/28/2006	12/18/2005	MCTNF	Mail Non-Final Rejection	345		4
13	10/27/2006		CTNF	Non-Final Rejection			0
12	07/24/2006		DOCK	Case Docketed to Examiner in GAU			0
11	07/13/2006		DOCK	Case Docketed to Examiner in GAU			0
8	01/18/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
7	06/17/2005		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
6	03/15/2005		L194	Cleared by OIPE CSR			0
5	03/15/2005		L194	Cleared by OIPE CSR			0
3	03/04/2005		OIPE	Application Dispatched from OIPE			0
2	03/04/2005		M903	Notice of DO/EO Acceptance Mailed			0
4	10/18/2004		371COMP	371 Completion Date			0
0.5	04/01/2003		NEFILE	International Filing date			0

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

In re Patent No. 8,097,585
Issued: January 17, 2012
Application No. 10/511,612
Filing or 371(c) Date: August 5, 2005
Dkt. No.: 15757-0006US1

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on March 19, 2012 requesting an increase in patent term adjustment from 861 days to 972 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 8,097,585 on January 17, 2012. The patent issued with a patent term adjustment of 861 days. The instant application for patent term adjustment was timely filed March 19, 2012.

Patentees dispute the 735 days accorded pursuant to 37 CFR 1.703(b). Patentees assert that the period beginning on October 15, 2004 (the day after the date that is three years after the date on which national stage commenced), and ending January 17, 2012 (the date the patent was issued), is 1,555 days in length. With respect to the request for continued examination filed on November 13, 2009, patentees assert that the Director erred in subtracting from "B Delay" a period of time that was not "consumed by continued examination of the application. Patentees argue that no continued examination took place during the 112 day period from September 28, 2011 (the mailing date of the Notice of Allowance), until January 17, 2012 (the date the patent was issued). Accordingly, patentees assert that the patent is entitled to an additional 112 days of "B Delay."

Patentees' arguments have been considered, but not found persuasive.

35 USC 154(b)(1)(B) states in relevant part:

> 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).

37 CFR 1.702(b) states in relevant part:

> 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).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Thus, 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 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, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (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)[1]. 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

[1] 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.

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 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[2] 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. 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).

Accordingly, in the instant matter, the period of adjustment under § 1.702(b) is 735 days, the period from November 13, 2009, the date that the RCE was filed, to January 17, 2012, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35

[2] 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.

U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
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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OCT 01 2010

OFFICE OF PETITIONS

ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON NJ 08543-5312

In re Application of	:	
Jill MacDonald BOYCE	:	
Application No. 10/511,638	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. PU020126	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Office decision mailed March 16, 2009, the application became abandoned on May 17, 2009. *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 and fee; (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 2112 for further processing in the normal course of business..

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

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Paper No.

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AUG 30 2010

OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,589,127	:	DECISION ON REQUEST
Dorn et al.	:	FOR
Issue Date: September 15, 2009	:	RECONSIDERATION OF
Application No. 10/511,661	:	PATENT TERM ADJUSTMENT
Filed: October 18, 2004	:	and
Atty Docket No. 21058YP	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 18, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and fifty-seven (957) 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 fifty-seven (957) days is **GRANTED**.

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

On September 15, 2009, Application No. 10/511,661 matured into U.S. Patent No. 7,589,127, with a patent term adjustment of 655 days. On February 25, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION," indicating that the patent term adjustment had been determined to be 954 days.

The Office notes that the decision of April 21, 2010 was issued in error as it accorded Patentee three fewer days of patent term adjustment than was warranted. The present decision supersedes the decision mailed on April 21, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is **957 days**. The three additional days of adjustment will be added.

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 **nine hundred and fifty-seven (957) 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 : 7,589,127 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Dorn 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 655 days

Delete the phrase "by 655 days" and insert – by 957 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/08/10

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10511669 Patent No.: 7541329

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
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — Art Unit 1654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 23,2010

TO SPE OF : ART UNIT 3744
SUBJECT : Request for Certificate of Correction for Appl. No /10/511702 patent 7380413

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.

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

Comments: _____

/William C. Doerrler/ 4-5-2012

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 23,2010

TO SPE OF : ART UNIT 3744
SUBJECT : Request for Certificate of Correction for Appl. No /10/511702 patent 7380413

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments:

/Cheryl J. Tyler/ 3744

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ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD CA 92008

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AUG 30 2010

OFFICE OF PETITIONS

In re Application :
Freier, et al. :
Application No. 10/511,832 : PATENT TERM ADJUSTMENT
Filed: January 3, 2006 :
Dkt. No.: RTS-0428USA :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 20, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 285 days, not 136 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.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent 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.

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].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, 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 application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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March Fischmann & Breyfogle LLP
8055 E. Tufts Avenue, Suite 450
Denver CO 80237

MAILED
FEB 27 2012
OFFICE OF PETITIONS

In re Patent No. 7,368,162
Issue Date: May 6, 2008
Application No. 10/511,881
Filed: October 19, 2004
Attorney Docket No. **50486-00005**

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 remitted, is hereby **ACCEPTED**.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,732,149	:	DECISION ON REQUEST FOR
Kojima et al.	:	RECONSIDERATION OF
Issue Date: June 8, 2010	:	PATENT TERM ADJUSTMENT AND
Application No. 10/511,993	:	NOTICE OF INTENT TO ISSUE
Filed: March 28, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No.14875-135US1	:	

This is a decision on the petition filed on August 9, 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, one hundred and forty (1,140) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **nine hundred and twenty-one (921) days**.

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)(4) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141,

145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)). Patentees failed to account for the filing of the notice of appeal on May 13, 2009. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 219 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, May 13, 2009, and ending on the day the notice of allowance was mailed, December 18, 2009. Accordingly, the patent term adjustment is 921 days (437 days of A delay + 737 days of B delay - 33 days of overlap - 220 days of applicant delay[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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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 the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office

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[1] No consideration will be given to patentee's arguments of an additional reduction for matters that occurred prior to the mailing of the notice of allowance. Further to this point, PALM records indicate that the issue fee payment was received in the Office on March 26, 2010. No application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended March 26, 2010. Accordingly, relative to patentee's assertions of adjustments to the patent term entered prior to the mailing of the Notice of Allowance, it is appropriate to dismiss these arguments as untimely filed under § 1.705(b).

will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and twenty-one (921) 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 : 7,732,149 B2

DATED : Jun. 8, 2010

INVENTOR(S) : Kojima 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 (922) days

Delete the phrase "by 922 days" and insert – by 921 days--

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OFFICE OF PETITIONS

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

In re Patent No.7,732,149	:	
Kojima, et al.	:	DECISION FOR REQUEST
Issue Date :June 8, 2010	:	FOR RECONSIDERATION
Application No. 10/511,993	:	OF PATENT TERM
Filed: March 28, 2005	:	ADJUSTMENT
Attorney Docket No. 14875-135US1	:	

This is a decision on the petition filed on September 27, 2010, which is being treated as a petition under 37 C.F.R. § 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, one hundred and forty (1,140) days.

The petition is dismissed.

Patentees dispute the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive. 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). 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 219 days, beginning on the date of filing of the notice of appeal, May 13, 2009, and ending on December 17, 2009, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 737 (956 - 219) 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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

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MAILED

APR 20 2011

PCT LEGAL ADMINISTRATION

In re Application of
PAPADOPOULUS
Patent No: 7,615,355
Application No: 10/512,060
PCT No.: PCT/US03/12385
Int. Filing Date: 22 April 2003
Priority Date: 22 April 2002
Attorney's Docket No.: 1033561-000020
For: PERIPHERAL-TYPE BENZODIAZEPINE RECEPTOR EXPRESSION LEVEL AS AN INDEX OF ORGAN DAMAGE AND REGENERATION

DECISION ON PETITION

This decision is in response to the "PETITION UNDER 37 C.F.R. 1.183" filed on 11 March 2011.

BACKGROUND

On 22 April 2003, an international application (assigned international application no. PCT/US03/12385) was filed in the United States Receiving Office. The international application included, *inter alia*, a PCT Request form (PCT/RO/101) containing an unexecuted declaration of inventorship under PCT Rule 4.17(iv).

On 31 July 2003, an executed Rule 4.17(iv) declaration was filed in international application PCT/US03/12385 pursuant to PCT Rule 26*ter*.

On 21 October 2004, a submission to enter the U.S. national phase for international application no. PCT/US03/12385 was filed in the USPTO. The submission, assigned U.S. application no. 10/512,060, included, *inter alia*, a transmittal letter (PTO-1390) and payment of the basic national fee.

On 23 November 2005, a "Notification of Missing Requirements Under 35 U.S.C. 371" (Form PCT/DO/EO/905) was mailed to applicants requiring a new oath or declaration in compliance with 37 CFR 1.497(a)-(b).

On 08 December 2005, applicants filed a newly executed declaration.

On 09 January 2006, a "Notification of Acceptance Under 35 U.S.C. 371" (Form PCT/DO/EO/903) was mailed identifying "08 December 2005" as the "Date of Completion of All 35 U.S.C. 371 Requirements."

On 10 November 2009, application no. 10/512,060 issued into U.S. Patent 7,615,355 (hereafter, the '355 patent). The front page of the '355 patent indicated a patent term adjustment (PTA) of 391 days.

On 4 May 2010, a "Request for Recalculation of Patent Term Adjustment in view of *Wyeth*" was filed for the '355 patent.

On 7 May 2010, a decision on the 04 May 2010 "Request for Recalculation" was mailed determining PTA to be 973 days. Also on 07 May 2010, a "Complaint" was filed in the United States District Court for the District of Columbia against the USPTO seeking a PTA of 1,387 days.

On 09 February 2011, the district court remanded the matter to the USPTO to permit the filing and consideration of a petition under 37 CFR 1.183 to accord the 10/512,060 application a 35 U.S.C. § 371 fulfillment date of October 21, 2004 and consequential recalculation of PTA.

On 11 March 2011, the petition under 37 CFR 1.183 considered herein was filed.

DISCUSSION

The petition requests:

> *...suspension of the rules, to the extent that may be deemed necessary, in order to provide Georgetown with a 35 U.S.C. § 371 ("§ 371") date of October 21, 2004, and a recalculated patent term adjustment ("PTA") based on 1,387 days, which the interest of justice requires for at least the reasons set forth below. Georgetown submits that the single most important of these many compelling reasons is that this relief is consistent with and possibly required by § 602(VI) of the Manuel of Patent Examining Procedure ("M.P.E.P.").*

The statutory basis for Petitioners' PTA claim is 35 U.S.C. 154(b)(1)(A), which states, in relevant part:

> *"if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—*
> *(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after—*
> ***
> *(II) the date on which an international application fulfilled the requirements of section 371 of this title;* ***
>
> *the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i)* *** *until the action described in such clause is taken.*

At issue in the present case is the date on which international application PCT/US03/12385 fulfilled the requirements of 35 U.S.C. 371. As indicated in the "Notification of Acceptance" mailed 09 January 2006, the Office accorded the 10/512,060 application a §371 fulfillment date of 08 December 2005 based on the receipt on that date of an executed declaration in compliance

with 37 CFR 1.497(a)-(b).[1] Petitioners' arguments in support of the 21 October 2004 § 371 fulfillment date are addressed below.

I. The Executed Declaration Submitted in the International Phase Does Not Comply with PCT Rule 4.17(iv)

Petitioners argue that the executed declaration filed in the international phase complies with PCT Rule 4.17(iv), thus fulfilling the requirement under 35 U.S.C. 371(c)(4) for an oath or declaration of the inventors.

Petitioners' argument is not persuasive. It is undisputed that the executed declaration submitted under PCT Rule 26*ter* does not identify the international application by international application number. A PCT Rule 4.17(iv) declaration must be worded as prescribed by the PCT Administrative Instructions. See PCT Rule 4.17, which states, in pertinent part:

> *The request may, for the purposes of the national law applicable in one or more designated States, contain one or more of the following declarations, worded as prescribed by the Administrative Instructions:*
> ***
> *(iv) a declaration of inventorship, as referred to in Rule 51bis.1(a)(iv), which shall be signed as prescribed by the Administrative Instructions;*
> ***
> (Emphasis added)

PCT Administrative Instruction 214 governs the wording of Rule 4.17(iv) declarations, and states, in pertinent part:

> *(a) A declaration of inventorship, referred to in Rule 4.17(iv), that is made for the purposes of the designation of the United States of America shall be worded as follows:*
> ***
> *This declaration is directed to international application No. PCT/... (if furnishing declaration pursuant to Rule 26ter).*
> ***
> (Emphasis added)

By failing to include the international application number in the declaration filed under Rule 26*ter*, the declaration was not "worded as prescribed by the Administrative Instructions" as required under Rule 4.17. Accordingly, the declaration does not comply with PCT Rule 4.17(iv).

[1] See 35 U.S.C. 371(c)(4).

II. Compliance With 37 CFR 1.497(a)-(b)

Petitioners assert that the Office erred in not accepting the Rule 4.17(iv) declaration submitted under Rule 26*ter* as compliant with 37 CFR 1.497(a)-(b).

Petitioners are correct in noting that a declaration that does not comply with PCT Rule 4.17(iv) will nevertheless be accepted for the purposes of entry into the U.S. national stage if it complies with 37 CFR 1.497(a)-(b). See "*Revision of Patent Cooperation Treaty Application Procedure,*" 66 FR 16004, 16005 (March 22, 2001). At issue in the present case is whether the Rule 4.17(iv) declaration "[i]dentifies the application to which it is directed", as required under 37 CFR 1.497(a)(2).

MPEP §602 (VI) provides guidance regarding acceptable combinations of information in a declaration that will serve to identify the specification to which the declaration is directed. MPEP §602 applies to declarations submitted in national stage applications.[2] Specifically, MPEP §602 states:

> ******The following combinations of information supplied in an oath or declaration filed after the filing date of the application are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:*
>
> *(A) application number (consisting of the series code and the serial number, e.g., 08/123,456);*
>
> *(B) serial number and filing date;*
>
> *(C) attorney docket number which was on the specification as filed;*
>
> *(D) title of the invention which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or*

---

[2] The applicability of MPEP § 602 to U.S. national stage applications is somewhat roundabout:

MPEP § 602 states:

> *See MPEP § 1896 for the identification requirements for a declaration filed in a U.S. national stage application filed under 35 U.S.C. 371.*

MPEP § 1896, (VI), in turn states:

> *MPEP § 601.01(a) gives the minimum requirements for identification of the specification. Submissions to enter the U.S. national stage under 35 U.S.C. 371 may identify the specification (in the oath or declaration) in the same manner as applications filed under 35 U.S.C. 111(a) or may identify the specification by reference to the international application number.*

MPEP § 601.01(a) refers back to MPEP § 602:

> *The oath or declaration filed in reply to such a notice under 37 CFR 1.53(f) must be executed by the inventors and must identify the specification and any amendment filed with the specification which includes subject matter not otherwise included in the specification (including claims) or drawings of the application as filed. See MPEP § 602.*

(E) title of the invention which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the USPTO is the application which the inventor(s) executed by signing the oath or declaration.

***

Any variance from the above guidelines will only be considered upon the filing of a petition for waiver of the rules under 37 CFR 1.183 accompanied by a petition fee (37 CFR 1.17(f)).

The executed Rule 4.17(iv) declaration submitted in the international phase does not contain the combinations of information set forth in MPEP § 602. The declaration does not include the title of the invention or application number. While the declaration identifies the attorney docket number used in the international phase, the attorney docket number was not "on the specification" as filed. MPEP § 602 (VI) makes clear that any variance from the guidelines will only be considered upon the filing of a petition for waiver under 37 CFR 1.183. Thus, in the absence of a grantable petition in the national stage application to accept the Rule 4.17(iv) declaration, the Office did not err in issuing a "Notification of Missing Requirements Under 35 U.S.C. 371" requiring a new oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Petitioners urge suspension of the rules in the interest of justice under 37 CFR 1.183. As explained further herein, the petition has been treated as a petition under 37 CFR 1.182, which is appropriate for situations not specifically provided for in the regulations. In this regard, it is noted that the guidelines of MPEP § 602(VI) reference the requirement of former rule 37 CFR 1.63(b)(1), which required the oath or declaration to identify the "specification" to which it is directed. MPEP § 602(VI) states, in pertinent part:

*37 CFR 1.63 requires that an oath or declaration identify the **specification** to which it is directed. The declaration form suggested by the Office includes spaces for filling in the names of the inventors, title of the invention, application number, filing date, and foreign priority application information. While this information should be provided, it is not essential that all of these spaces be completed in order to adequately identify the **specification** in compliance with 37 CFR 1.63(b)(1).*
***
*The following combinations of information supplied in an oath or declaration filed after the filing date of the application are acceptable as minimums for identifying a **specification** and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:****

(Emphasis added)

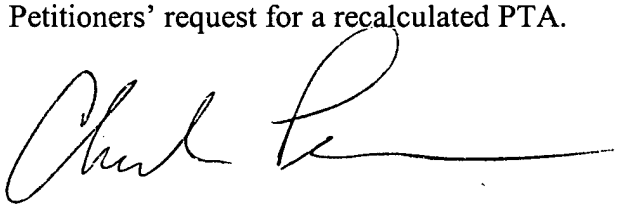
37 CFR 1.63(b)(1) was amended in 2000 to change the requirement that the oath or declaration identify the "specification" to which it is directed to a requirement that the oath or declaration identify the "application" to which it is directed. See *Changes to Implement the Patent Business Goals*, 65 FR 54603, 54667 (Sept. 8, 2000). Shortly thereafter, 37 CFR 1.497(a)(2) was similarly amended. See *Revision of Patent Cooperation Treaty Application Procedure*, 66 FR 16004, 16005 (March 22, 2001).

In the present case, the Rule 4.17(iv) declaration submitted under Rule 26*ter*, while not containing the combinations of information set forth in MPEP § 602, does identify the inventors and the attorney docket number that was present on the originally filed application, i.e., on the PCT Request.[3] This information adequately identifies the application to which the declaration is directed. As such, it would be appropriate in this case to accept the Rule 4.17(iv) declaration as complying with the requirements of 37 CFR 1.497(a)-(b). Consequently, the §371 fulfillment date is 22 October 2004.[4]

CONCLUSION

For reasons above, the petition is **GRANTED** to the extent that U.S. application no. 10/512,060 is accorded a §371 fulfillment date of 22 October 2004.

This matter is being referred to the Office of Patent Legal Administration for a decision on Petitioners' request for a recalculated PTA.



Charles Pearson
Director
Office of PCT Legal Administration

[3] The PCT Request is part of the international application. See PCT Article 3(2), which states:

> *An international application shall contain, as specified in this Treaty and the Regulations, a request, a description, one or more claims, one or more drawings (where required), and an abstract.*

[4] While Petitioners request a §371 completion date of 21 October 2004, Petitioners did not request early processing under 35 U.S.C. 371(f). Thus, the §371 requirements were completed when commencement occurred at 30 months from the priority date, i.e., 22 October 2004. See MPEP §1893.03(b).

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PO Box 1404
Alexandria, VA 22313-1404

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,615,355	:
Papadopoulous et al.	: DECISION UPON REMAND AND
Issue Date: November 10, 2009	: RECONSIDERATION OF
Application No. 10/512,060	: PATENT TERM ADJUSTMENT
Filed: December 08, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 033561-020	: TO ISSUE CERTIFICATE OF
Title: Peripheral-Type	: CORRECTION
Benzodiazepine Receptor	:
Expression level as an Index of	
Organ Damage and Regeneration	

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 ORDER of District Court Judge Ricardo M. Urbina dated February 9, 2011.

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 eighty-six (1386) 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 eighty-six (1386) 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 : 7,615,355 B2

DATED : **November 10, 2009** **DRAFT**

INVENTOR(S) : Papadopoulos 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 973 days

Delete the phrase "by 973 days" and insert – by 1386 days--

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171 17TH STREET NW
ATLANTA, GA 30363

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Stice et al.	:	
Application No. 10/512,153	:	ON PETITION
Filed: May 25, 2006	:	
Attorney Docket No. 04342.105057(US)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 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 June 23, 2010, no extensions of time under the provisions of 37 CFR 1.136(a) were timely 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 by operation of law on August 24, 2010. A Notice of Abandonment was mailed February 23, 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) including the 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on April 27, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account.

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

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner.
Office of Petitions

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1940 DUKE STREET
ALEXANDRIA VA 22314

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In re Application of :
Izuru Tanaka et al :
Application No. 10/512,164 : DECISION GRANTING PETITION
Filed: May 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 351065US8PCT :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 17, 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 December 28, 2011 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 2478 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.: _____

DATE : 07/22/10

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: 10512216 Patent No.: 7722890

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: ROBERT MONDESI
SUPERVISORY PATENT EXAMINER
SPE

Art Unit 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of :
Lahetkangas et al. :
Application No. 10/512,260 :
Filed: 10/22/2004 :
Atty Docket No. :
39700-569N01US/NC16742US :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on May 26, 2010. Applicants request that the patent term adjustment be increased from 663 days to at least 1157 days. Applicants request this correction in part on the basis that the Office will take in excess of three years to issue this patent.

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

The subject application was timely filed on May 26, 2010.[2]

Applicants assert entitlement to an additional period of adjustment of 138 days for Office delay in connection with the reply filed on March 19, 2008. Specifically, on July 10, 2008, a final Office action was mailed in response to the reply filed on March 19, 2008. On December 4, 2008, the final Office action was withdrawn, and a new final Office action was mailed. Applicants assert entitlement to a period of adjustment because that the final Office action mailed on December 4, 2008 was mailed four months and 138 days after the reply filed on March 19, 2008.

35 U.S.C. 154(b)(1)(A)(i) provides that:

— Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

37 CFR § 1.702 provides that:

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

37 CFR § 1.703 provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

[2] A review of Office PALM records indicates that the issue fee was paid on May 26, 2010.

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed 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;

Applicants' arguments and evidence have been considered, but have not been found persuasive. Pursuant to 35 U.S.C. 154(b)(1)(A)(i)(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the failure of the Office to respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken. In this regard, the Office did respond within four (4) months to petitioner's amendment filed on March 19, 2008, by issuing the Office action mailed on July 10, 2008. The fact that the outstanding Office action was withdrawn and a new Office action was mailed on December 4, 2008, does not alter the fact that the Office did respond to the reply within 4 months after the date on which the reply was filed.

Thus, it is concluded that, in this instance, the withdrawal of the Office action mailed on July 10, 2008, and the mailing of a new action under 35 U.S.C. 132 on December 4, 2008, did not constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

In view thereof, no change to the patent term adjustment at the time of mailing of the notice of allowance is warranted; the petition is **DISMISSED**.

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

The 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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date : November 22,2011

In re Application of :

Robert Leif

Application No : 10512337

Filed : 26-Jul-2005

Attorney Docket No : 5014636-16

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 November 22,2011

The request is **APPROVED.**

The request was signed by /Kyle Elliott/ (registration no. 39485) on behalf of all attorneys/agents associated with Customer Number 21129 . All attorneys/agents associated with Cusotmer Number 21129 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	Newport Instruments
Name2	Attn: Robert Leif
Address 1	3345 Hopi Place
Address 2	
City	San Diego
State	CA
Postal Code	92117
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

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	10512337
Filing Date	26-Jul-2005
First Named Inventor	Robert Leif
Art Unit	1773
Examiner Name	NEIL TURK
Attorney Docket Number	5014636-16
Title	Centrifugal cytology system, chamber block and method for the preparation of treated monolayers of sample material

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 21129

The reason(s) for this request are those described in 37 CFR:

10.40(c)(5)

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	Newport Instruments Attn: Robert Leif
Address	3345 Hopi Place
City	San Diego
State	CA
Postal Code	92117
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Kyle Elliott/
Name	/Kyle Elliott/
Registration Number	39485

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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HOYNG MONEGIER LLP
REMBRANDT TOWER 31ST FLOOR
AMSTELPLEIN 1
AMSTERDAM 1096 HA NL NETHERLANDS

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Patent No: 7,238,105	:	
Issued: July 3, 2007	:	
Application No. 10/512,449	:	NOTICE
Filed: September 23, 2005	:	
Attorney Docket No. 05235.0015.PCUS00	:	

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).

Additionally, according to USPTO records, Oxycell Holding BV is not the current assignee in the above-identified patent. Further, there is no Statement Under 37 CFR 3.73(b) currently on record.

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

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

By hand: 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,449,115	:	
Issue Date: November 11, 2008	:	
Application No. 10/512,543	:	ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. GULDE-0053	:	

This is in response to the REQUEST FOR CORRECTION OF ASSIGNEE'S NAMES PURSUANT TO MPEP § 1481.01 filed April 13, 2011, which is properly 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 request is **GRANTED**.

It is noted that the assignment of record states HELMHOLTZ-ZENTRUM FUR UMWELTFORSCHUNG GMBH-UFZ; however, the requested correction omits the "UFZ."

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Pursuant to the issue fee transmittal filed October 7, 2008, the patent issued in the name of assignee "UFZ-UMWELTFORSCHUNGS ZENTRUM LEIPZIG-HALLE GMBH" LEIPZIG, GERMANY. Patentee files this request, requesting that the name of the assignee be corrected to "HELMHOLTZ-ZENTRUM FUR UMWELTFORSCHUNG GMBH, LEIPZIG, GERMANY" and submits a certificate of correction for this purpose.

Patentee's evidence and Office records show that the assignment of the above-identified application to HELMHOLTZ-ZENTRUM FUR UMWELTFORSCHUNG GMBH, LEIPZIG, GERMANY was recorded on September 9, 2008. The recording of the assignment (Reel/Frame 021501/0892) occurred before issuance of the patent on November 11, 2008.

Receipt of the required $100 certificate of correction fee and the required $130 processing fee is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction to correct the Assignee data.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

6-20-11

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

Patent No. : 7,449,115 B2
Inventor(s) : . Wemze et, al.
Issued : November 11, 2008
Application No: 10/512,543

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 or 1.323.

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(ih) (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
(703) 756-1583 or 1580

Csaba Henter
Millen, White, Zelano & Branigan
Arlington Courthouse Plaza 1
2200 Clarendon Blvd. Suite 1400
Arlington, VA 22201

ej

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OCT 27 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,635,752	:	DECISION ON
Cattaneo, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: December 22, 2009	:	AND NOTICE OF INTENT
Application No. 10/512,627	:	TO ISSUE
Filed: May 25, 2005	:	CERTIFICATE OF
Attorney Docket No. 07039-0405US1	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH", filed May 20, 2010. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand one hundred fifty-nine (1159) days to one thousand two hundred thirteen (1213) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand two hundred thirteen (1213)** days.

On December 22, 2009, the above-identified application matured into U.S. Patent No. 7,635,752. Applicants timely filed an application for patent term adjustment under 37 CFR 1.705(d) on February 22, 2010, asserting that the patent term adjustment was one thousand two hundred thirteen (1213) days. The Office mailed a decision, granting in part, on April 20, 2010. The decision stated that the correct patent term adjustment was one thousand, one hundred fifty-nine (1159) days.

Patentees assert that they should not have been assessed applicant delay of fifty-four (54) days for the submission of a "RESPONSE TO NOTICE OF ALLOWANCE" on October 30, 2009, after the Notice of Allowance was mailed on August 25, 2009.

A "RESPONSE TO EXAMINER'S AMENDMENT" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that applicants' "RESPONSE TO NOTICE OF ALLWOWANCE" was nothing more than a transmittal or cover letter, and thus is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of fifty-four (54) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is one thousand, two hundred thirteen (1213) days (1213 days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e), previously paid on February 22, 2010, is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one thousand, two hundred thirteen (1213)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: draft certificate of correction

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,635,752 B2

DATED : **December 22, 2009**

INVENTOR(S) : Cattaneo 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 522 days.

Delete the phrase "by 522 days" and insert – by 1213 days--

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,439,251	:	LETTER REGARDING PATENT
Fisher et al.	:	TERM ADJUSTMENT AND
Issue Date: October 21, 2008	:	NOTICE OF INTENT TO ISSUE
Application No. 10/512,673	:	CERTIFICATE OF CORRECTION
Filed: July 8, 2005	:	
Attorney Docket No. 041761-0319	:	

This is in response to the "RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed August 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred fifty-three (353) days to three hundred ninety-one (391) days. The present reconsideration petition was filed within two months of the July 24, 2009 decision on petition under 37 CFR 1.705(d) and is therefore, timely filed.

The request for reconsideration of patent term adjustment is **GRANTED to the extent indicated herein**.

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay").

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is 105 days. Patentees calculate this 105 day period based on the application having been filed under 35 U.S.C. §371 on July 8, 2005, and the patent having not issued until October 21, 2008, three years and 105 days later.

Patentees are informed that the Three Year Delay period is triggered by the application's commencement date, not the 371 fulfillment date. The commencement date is 30 months from the

priority date claimed in the international application, or earlier. The priority date claimed in the international application is May 3, 2002. Thirty months from that date is November 3, 2004, which is the beginning of the Three Year Delay period. Accordingly, the maximum period of adjustment under § 1.702(b) is 353 days, counting the number of days beginning on November 4, 2007 and ending on October 21, 2008 when the patent issued.

The Office concurs the period of delay of 30 days for the Office's failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4)(from September 22, 2008 to October 21, 2008) overlaps with a portion of the Three Year Delay period. There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii). Therefore, the period of B delay is 323 (353-30) days.

As such, patentees are entitled to a patent term adjustment of 639 days (316 days examination delay +353 days maximum Three Year delay reduced by 30 overlap - 0 days for applicants delay).

Accordingly, 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 six hundred thirty-nine (639) days.

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 adjusted by **six hundred thirty-nine (639)** 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 the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,439,251 B2

DATED : **October 21, 2008** **DRAFT**

INVENTOR(S) : Fisher 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 353 days

Delete the phrase "by 353 days" and insert – by 639 days--

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Vereenigde
Perkins Coie LLP
700 13th Street, NW
Suite 600
Washington DC 20005-3960

MAILED
AUG 17 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
MERTENS, et al.	:	
U.S. Application No.: 10/512,907	:	DECISION ON PETITION
PCT No.: PCT/EP03/04425	:	
Int. Filing Date: 28 April 2003	:	UNDER 37 CFR 1.181
Priority Date: 29 April 2002	:	
Attorney Docket No.: 00852-8002.US00	:	
For: ANTAGONISTS OF FACTOR VIII	:	
INTERACTION WITH LOW-DENSITY	:	
LIPOPROTEIN RECEPTOR RELATED PROTEIN	:	

This decision is in response to applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment filed 07 July 2011 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 April 2008, applicant filed international application PCT/EP03/04425, which claimed priority of an earlier application filed 29 April 2002. A copy of the international application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 13 November 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 October 2004.

On 29 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and a sequence listing.

On 08 June 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date and a copy of the sequence listing in computer readable form (CRF). Applicant was given two months to respond.

On 04 November 2005, applicant filed an executed declaration of the inventors and a

CRF and paper copy of the sequence listing.

On 07 February 2006, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) instructing applicant that the filed CRF of the sequence listing was non-compliant. Applicant was afforded one month to provide a proper response to the notification. Applicant was further advised that this period was not extendable but that the period set in the Form PCT/DO/EO/905 mailed 08 June 2005 could be extended pursuant to 37 CFR 1.136(a).

On 28 July 2006, applicant responded with another CRF of the sequence listing and a petition for a five-month extension of time and authorization to charge the appropriate extension of time fee.

On 17 January 2008, applicant was mailed an additional Form PCT/DO/EO/916 instructing applicant that the CRF of the sequence listing filed "07/30/2007" was non-compliant. Applicant was afforded one month to provide a proper response to the notification.

On 12 March 2008, applicant was mailed a "Notification to Comply With Requirements For Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922). Applicant was afforded two months to respond. In addition, applicant was informed that the forms mailed 08 June 2005, 07 February 2006 and 17 January 2008 were mailed in error and withdrawn.

On 17 March 2008, applicant responded to the notice.

On 30 May 2008, applicant was mailed a "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495."

ON 31 March 2009, applicant was advised that the application did not comply with the sequence rules.

On 18 February 2010, applicant was mailed another Form PCT/DO/EO/916 regarding the need to file a CRF of the sequence listing.

On 18 March 2010, applicant filed an amendment cancelling claim 6 which had been identified by the examiner of record as having not been found in the sequence listing or in the CRF.

On 12 May 2011, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) instructing applicant that the application was abandoned for failure to respond to the Form PCT/DO/EO/905 mailed 12 March 2008.

On 07 July 2011, applicant filed the petition discussed herein.

DISCUSSION

Applicant is advised that the examiner has concluded that the cancellation of claim six satisfies the sequence listing compliance issue raised in the notice to comply mailed 31 March 2009. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

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

The Form PCT/DO/EO/909 mailed 12 May 2011 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision. The application will then be returned to group art unit 1641 for continued examination.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

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JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Moores et al.	:	
Application No. 10/512,911	:	
Filed: October 29, 2004	:	DECISION ON PETITION
Attorney Docket No. 1055SR-020	:	UNDER 37 C.F.R. § 1.137(B)
Title: COMPOSITIONS AND METHODS	:	
FOR PREVENTING OR REDUCING	:	
RESISTANCE OF INSECTS TO	:	
INSECTICIDES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 16, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 13, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 14, 2011. A notice of abandonment was mailed on May 23, 2011.

On December 16, 2011, Petitioner filed a Request for Continued Examination (RCE) along with the associated fee, an amendment, and the proper statement of unintentional delay. The concurrently filed amendment has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on December 16, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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GlaxoSmithKline
GLOBAL PATENTS -US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

In re Application of	:	
Kelly M. Aubart et al.	:	
Application No. 10/512,926	:	DECISION ON PETITION
Filed: October 29, 2004	:	
Attorney Docket No. P51358	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 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 January 21, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 21, 2009. Accordingly, the date of abandonment of this application is January 22, 2010. A Notice of Abandonment was mailed on February 5, 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.

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 the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Laura K. Madden
709 Swedeland Road
King of Prussia, PA 19406

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MCDONNELL BOEHNEN HULBERT
BERGHOFF LLP
300 SOUTH WACKER DRIVE
SUITE 3100
CHICAGO IL 60606

MAILED
DEC 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,704,995	: DECISION ON
Buhr, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/513,081	: of PATENT TERM ADJUSTMENT
Issue Date: April 27, 2010	: and
Filed: July 27, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 02-202-F	: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FILED UNDER 37 C.F.R. §1.705(d)", filed June 18, 2010, and the "SUPPLEMENT TO THE REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) FILED JUNE 18, 2010", requesting that the patent term adjustment indicated on the above-identified patent be corrected from six hundred sixty-six (666) days to one thousand ninety-four (1094) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

On April 27, 2010, the instant application matured into U.S. Patent No. 7,704,995 with a patent term adjustment of six hundred sixty-six (666) days. The Office determined a patent term adjustment of 666 days based upon 345 days of Office delay pursuant to 37 CFR 1.703(a)(1), 6 days of Office delay pursuant to 37 CFR 1.703(a)(2), 5 days of Office delay pursuant to 37 CFR 1.703(a)(6), and 513 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 106 days of Applicant delay pursuant to 37 CFR 1.704(c)(10) and 86 days of Applicant delay pursuant to 37 CFR 1.704(b).

Patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. Commencement began on November 3, 2004 (i.e. 30 months from the priority date). Accordingly, the over three year period began on November 4, 2007 and ended on April 27, 2010, and is 906 days. See 35 U.S.C. 154(b)(1)(B)(i). Therefore, the "B" delay period is 906 days.

Applicants also point out that the should have been assessed three (3) days of Applicant delay under 37 CFR 1.704(b). The Office mailed a Notification of Missing Requirements on June 23, 2005. However, Applicants did not file a reply until September 26, 2005. Accordingly, three (3) days of Applicant delay should have been assessed pursuant to 37 CFR 1.704(b).

In addition, Applicants argue that they should have only been assessed sixty-five (65) days of Applicant delay pursuant to 37 CFR 1.704(c)(10), not one hundred six (106) days. The Office mailed a Notice of Allowance on October 1, 2009. Applicants filed a Request for Correction of Inventorship on January 12, 2010. In reply, the Office mailed a Corrected Filing Receipt on March 17, 2010. Accordingly, sixty-five (65) days of Applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(10).

In view thereof, the correct number of days of patent term adjustment is 1094 days (356 days of "A"' delay and 906 days of "B" delay, reduced by 14 days of overlap between "A" and "B" delay and 154 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 Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand ninety-four (1094)** 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 : 7,704,995 B2

DATED : **April 27, 2010**

INVENTOR(S) : Buhr 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 666 days.

Delete the phrase "by 666 days" and insert – by 1094 days--

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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NOV 17 2011

OFFICE OF PETITIONS

In re Application	:	
Exley, et al.	:	
Application No. 10/513,109	:	DECISION ON APPLICATION
Filed: June 30, 2005	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 01948/083002	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed November 2, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded two hundred thirty-seven (237) days to four hundred fifty-seven (457) days.

The application for 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 **four hundred fifty-seven (457) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 2, 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 two hundred thirty-seven (237) days. On

November 2, 2011, Applicants timely[1] submitted the instant application for patent term adjustment.

Applicants do not state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred thirty-seven (237) days based on an adjustment of four hundred five (405) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by thirty-five (35), ninety-four (94), thirty-two (32), and two (2) days of applicant delay pursuant to 37 C.F.R. § 1.704(b), and five (5) days of applicant delay pursuant to 37 C.F.R. § 1.704(c)(8).

Applicants were improperly assessed delay of 5 days under 37 C.F.R. § 1.704(c)(8) for filing a supplemental IDS on March 27, 2011. A review of the file does not indicate that an IDS was filed on March 27, 2011. Accordingly, no applicant delay should have been assessed for this supposed filing.

In addition, Applicants are correct that the Office was not assessed delay under 37 C.F.R. § 1.703(a)(3) for mailing a non-final Office action on July 16, 2010. Applicants had previously filed an RCE on June 4, 2009. The Office did not mail an action under 35 U.S.C. 132 until July 16, 2010. Accordingly, two hundred eighty-five (285) days of Office delay should have been accorded under 37 C.F.R. § 1.703(a)(3).

Lastly, Applicants point out that they should have been assessed seventy (70) days of delay under 37 C.F.R. § 1.704(c)(7). In response to Applicants' June 4, 2009 RCE, the Office mailed a Notice of Non-Compliant Amendment on July 31, 2009. Applicants filed a compliant reply on August 13, 2009. Accordingly, 70 days of Applicant delay should have been assessed under § 1.704(c)(7). The Office thanks Applicants for their good faith and candor in bringing this to the Office's attention.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **four hundred fifty-seven (457) days** (690 (405+285) days of PTO delay, reduced by 233 (35+94+32+70+2) days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 03-2095, as authorized.

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[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: updated PAIR screen

Patent Term Adjustments

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

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

PTA Calculations for Application: 10513109

Application Filing Date	06/30/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	405
A Delays	405	PTO Manual Adjustment	220
B Delays	0	Applicant Delay (APPL)	168
C Delays	0	Total PTA (days)	457

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
140	11/10/2011		P028	Adjustment of PTA Calculation by PTO	220		0
120	08/02/2011		MN/=.	Mail Notice of Allowance			0
115	07/29/2011		IREV	Issue Revision Completed			0
114	07/29/2011		DVER	Document Verification			0
113	07/29/2011		N/=.	Notice of Allowance Data Verification Completed			0
112	07/29/2011		DOCK	Case Docketed to Examiner in GAU			0
119	07/19/2011		OAR	Office Action Review			0
118	07/19/2011		OAR	Office Action Review			0
117	07/19/2011		OAR	Office Action Review			0
116	07/19/2011		OAR	Office Action Review			0
111	07/19/2011		EX.R	Reasons for Allowance			0
110	07/19/2011		EX.A	Examiner's Amendment Communication			0
109	07/19/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
108	07/19/2011		CNTA	Allowability Notice			0
107	07/13/2011		FWDX	Date Forwarded to Examiner			0
106	07/08/2011		A.NE	Amendment after Final Rejection			0
105	06/10/2011		ELC_RVW	Electronic Review			0
104	06/10/2011		EML_NTF	Email Notification			0
103	06/10/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
102	06/06/2011		OAR	Office Action Review			0
101	06/06/2011		CTFR	Final Rejection			0
96	04/03/2011		FWDX	Date Forwarded to Examiner			0
94	03/27/2011	03/22/2011	EIDS.	Electronic Information Disclosure Statement		5	95
98	03/22/2011		IDSC	Information Disclosure Statement considered			0
95	03/22/2011		A...	Response after Non-Final Action			0
93	03/22/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
92	12/27/2010		ELC_RVW	Electronic Review			0
91	12/27/2010		EML_NTF	Email Notification			0
90	12/27/2010		MCTNF	Mail Non-Final Rejection			0
89	12/20/2010		CTNF	Non-Final Rejection			0
87	10/19/2010		FWDX	Date Forwarded to Examiner			0
86	10/18/2010	10/16/2010	A...	Response after Non-Final Action		2	81
85	07/16/2010		ELC_RVW	Electronic Review			0
84	07/16/2010		EML_NTR	Email Notification			0
83	07/16/2010		EML_NTF	Email Notification			0
82	07/16/2010		MW/AC	Mail Notice of Withdrawn Action			0
81	07/16/2010		MCTNF	Mail Non-Final Rejection			0
80	07/06/2010		CTNF	Non-Final Rejection			0
79	07/06/2010		FWDX	Date Forwarded to Examiner			0
78	07/06/2010		W/AC	Withdrawing/Vacating Office Action Letter			0
77	04/30/2010		LET.	Miscellaneous Incoming Letter			0
76	11/24/2009		EML_NTR	Email Notification			0
75	11/24/2009		MM327	Mail Miscellaneous Communication to Applicant			0
74	11/20/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
73	10/09/2009		EML_NTR	Email Notification			0
72	10/07/2009		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
69	09/21/2009		FWDX	Date Forwarded to Examiner			0
68.1	08/13/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
68	08/13/2009		A...	Response after Non-Final Action			0
67	07/31/2009		ELC_RVW	Electronic Review			0
66	07/31/2009		EML_NTF	Email Notification			0
65	07/31/2009		MCPA-AMD	Mail Notice of Informal or Non-Responsive RCE Amendment			0
64	07/29/2009		CPA-AMD	RCE Amendment Informal or Non-Responsive			0
62	06/05/2009		FWDX	Date Forwarded to Examiner			0
60	06/05/2009		FWDX	Date Forwarded to Examiner			0

58	06/05/2009		ABN9	Disposal for a RCE / CPA / R129			0
63	06/04/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
61	06/04/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
59	06/04/2009	05/03/2009	RCEX	Request for Continued Examination (RCE)		32	50
57	06/04/2009		XT/G	Request for Extension of Time - Granted			0
56	06/04/2009		BRCE	Workflow - Request for RCE - Begin			0
55	05/07/2009		EML_NTR	Email Notification			0
54	05/07/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
53	05/04/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
52	02/03/2009		ELC_RVW	Electronic Review			0
51	02/03/2009		EML_NTF	Email Notification			0
50	02/03/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
49	01/30/2009		CTFR	Final Rejection			0
46	11/26/2008		FWDX	Date Forwarded to Examiner			0
48	11/17/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
47	11/17/2008		C614	New or Additional Drawing Filed			0
45	11/17/2008	08/15/2008	A...	Response after Non-Final Action		94	41
44	11/17/2008		XT/G	Request for Extension of Time - Granted			0
43	05/20/2008		ELC_RVW	Electronic Review			0
42	05/18/2008		EML_NTF	Email Notification			0
41	05/15/2008		MCTNF	Mail Non-Final Rejection			0
40	05/12/2008		CTNF	Non-Final Rejection			0
29	03/05/2008		FWDX	Date Forwarded to Examiner			0
32	02/13/2008		IDSC	Information Disclosure Statement considered			0
28	02/13/2008	01/09/2008	ELC.	Response to Election / Restriction Filed		35	20
27	02/13/2008		XT/G	Request for Extension of Time - Granted			0
26	02/13/2008		RCAP	Reference capture on IDS			0
25	02/13/2008		M844	Information Disclosure Statement (IDS) Filed			0
23	02/13/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
22	10/10/2007		ELC_RVW	Electronic Review			0
21	10/09/2007		EML_NTF	Email Notification			0
20	10/09/2007	08/30/2006	MCTRS	Mail Restriction Requirement	405		6
19	10/01/2007		CTRS	Restriction/Election Requirement			0
31	01/03/2007		IDSC	Information Disclosure Statement considered			0
17	01/03/2007		RCAP	Reference capture on IDS			0
16.7	01/03/2007		M844	Information Disclosure Statement (IDS) Filed			0
16	01/03/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
15	01/20/2006		DOCK	Case Docketed to Examiner in GAU			0
14	12/01/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
11	11/30/2005		DOCK	Case Docketed to Examiner in GAU			0
13	10/29/2005		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
12	10/29/2005		A.PE	Preliminary Amendment			0
10	09/28/2005		L194	Cleared by OIPE CSR			0
9	09/28/2005		L194	Cleared by OIPE CSR			0
8	09/28/2005		L194	Cleared by OIPE CSR			0
7	09/28/2005		L194	Cleared by OIPE CSR			0
5	09/20/2005		OIPE	Application Dispatched from OIPE			0
4	09/20/2005		M903	Notice of DO/EO Acceptance Mailed			0
6	06/30/2005		371COMP	371 Completion Date			0
3	06/30/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
0.5	05/01/2003		NEFILE	International Filing date			0

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MILWAUKEE WI 53202

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JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Bell et al.	:	
Application No. 10/513,129	:	DECISION ON PETITION
Filed: June 3, 2005	:	
Attorney Docket No. 063511-9074-00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed May 21, 2010. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on August 22, 2010. A Notice of Abandonment was mailed December 7, 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 (previously filed November 22, 2010); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the duplicate $555.00, three- month extension of time fees submitted on November 22, 2010 and November 23, 2010 were subsequent to the maximum extendable period for reply, these fees are unnecessary and will be refunded to petitioner's deposit account and credit card.

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

This matter is being referred to Technology Center 3772 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed November 22, 2010.

Joan Olszewski
Petitions Examiner
Office of Petitions

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application :
Martinsen, et al. :
Application No. 10/513,151 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: August 9, 2005 :
Dkt. No.: 2800-125 :

This is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed September 10, 2010. This matter is being properly treated under 37 CFR 1.705(b).

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicants submit that as of the time of allowance, the application is entitled to a patent term adjustment is 1049 days, not 785 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed August 11, 2010. Applicants contest the adjustment of 675 days under 37 CFR 1.702(a)(1) and assert that the correct adjustment is 1080 days.

Review of the record reveals that the correct adjustment pursuant to 37 CFR 1.702(a)(1) is 1080 days, as argued, the adjustment having commenced October 10, 2008 and ended September 23, 2009. See, 37 CFR 1.703(a)(1).

In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 1049 days, as argued.

However, applicants are advised that the date of commencement is actually November 15, 2004, not November 14, 2004 as asserted. See, PCT Rule 80.5.

The $200.00 patent term adjustment application required per 37 CFR 1.18 (e) has been charged to the authorized deposit account.

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

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 10/7/2010

Time: 08:24:05

PALM INTRANET

PTA Calculations for Application: 10/513151			
Application Filing Date:	08/09/2005	PTO Delay (PTO):	675
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	1049
PTO Delay Adjustment:	405		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
76	10/07/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	1080		
75	10/07/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		675	
67	08/11/2010	MAIL NOTICE OF ALLOWANCE			
66	08/06/2010	ISSUE REVISION COMPLETED			
65	08/06/2010	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
64	08/06/2010	DOCUMENT VERIFICATION			
63	08/06/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	08/02/2010	EXAMINER'S AMENDMENT COMMUNICATION			
61	08/02/2010	NOTICE OF ALLOWABILITY			
58	07/20/2010	DATE FORWARDED TO EXAMINER			
57	07/19/2010	AMENDMENT AFTER FINAL REJECTION		31	53
56	07/19/2010	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	03/18/2010	ELECTRONIC REVIEW			
54	03/18/2010	EMAIL NOTIFICATION			
53	03/18/2010	MAIL FINAL REJECTION (PTOL - 326)			
52	03/15/2010	FINAL REJECTION			
49	01/11/2010	DATE FORWARDED TO EXAMINER			
48	12/23/2009	RESPONSE AFTER NON-FINAL ACTION			
47	09/23/2009	ELECTRONIC REVIEW			
46	09/23/2009	EMAIL NOTIFICATION			
45	09/23/2009	MAIL NON-FINAL REJECTION	675		17
44	09/21/2009	NON-FINAL REJECTION			
42	07/29/2009	ELECTRONIC INFORMATION DISCLOSURE			

		STATEMENT			
41	07/29/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
36	07/29/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	07/29/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	03/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
32	02/28/2007	TRANSFER INQUIRY TO GAU			
31	02/27/2007	ELECTRONIC REVIEW			
30	02/26/2007	EMAIL NOTIFICATION			
29	02/26/2007	PG-PUB ISSUE NOTIFICATION			
28	02/22/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
24	10/27/2006	CLEARED BY OIPE CSR			
23	10/27/2006	CLEARED BY OIPE CSR			
22	10/27/2006	CLEARED BY OIPE CSR			
21	10/27/2006	CLEARED BY OIPE CSR			
20	10/27/2006	CLEARED BY OIPE CSR			
19	10/27/2006	CLEARED BY OIPE CSR			
18	10/27/2006	CLEARED BY OIPE CSR			
17	09/18/2006	371 COMPLETION DATE			
16	10/16/2006	APPLICATION DISPATCHED FROM OIPE			

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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Joseph S Tripoli
Thomson Licensing Inc
Patent Operations
P O Box 5312
Princeton NJ 08543-5312

In re Application of	:	
Wolfgang KLAUSBERGER et al.	:	DECISION GRANTING PETITION
Application No. 10/513,233	:	UNDER 37 CFR 1.137(b)
Filed: November 2, 2004	:	
Atty. Docket No.: PD020008	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 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 September 14, 2010, which set a shortened statutory period of reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on December 15, 2010. A Notice of Abandonment was mailed April 13, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the final Office action, a Request for Continued Examination (RCE), and RCE fee, (2) a petition fee of $1620.00, and (3) a statement of unintentional delay. The reply to the final Office action 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 relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 2484 for further action on the filed Response.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

cc: Robert B. Levy
Thomson Licensing
2 Independence Way
Ste. #200
Princeton, NJ 08540

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JUL 22 2011

OFFICE OF PETITIONS

In re Application of
Wolfgang KLAUSBERGER, et *al.*
Application No. 10/513,233
Filed: November 2, 2004
Attorney Docket No. **PD020008**

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 July 14, 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 July 12, 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) 272-7253.

This application is being referred to Technology Center AU 2484 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

[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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/513,254	08/11/2005	Karl R. Lewis	006185-000011	1074

30565 7590 10/19/2010
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

EXAMINER
CLEMENT, MICHELLE RENEE

ART UNIT	PAPER NUMBER
3641	

NOTIFICATION DATE	DELIVERY MODE
10/19/2010	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):

DocketDept@uspatent.com

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OCT 18 2010

Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

In re Application of	:	DECISION ON PETITION
Karl R. LEWIS et al.	:	TO WITHDRAW FINALITY
Application No. 10/513,254	:	OF OFFICE ACTION
Filed: August 11, 2005	:	UNDER 37 CFR 1.181
For: MONOLITHIC RAIL PLATFORM AND	:	
BOLT ASSEMBLIES FOR A FIREARM	:	

This is a decision on Applicant's petition under 37 CFR 1.181, filed September 17, 2010, to withdraw the finality of the final Office action mailed March 31, 2010.

The petition is **DENIED**.

A review of the file reveals that a non-final Office action mailed on May 1, 2009 included a 112 second paragraph rejection, a 102(e) rejection on claims 1, 2 and 10-13 by Dionne (US Patent 6,625,916), four different 103(a) rejections on claim 3-6, 7-9, 14 , 15, 16, 20-23 and 25 by various combination of art. Applicant filed a response on November 2, 2009 to amend claims 1, 8, 14, 15, 21, 31, 37-39, to cancel claims 16 and 32, and to add new claims 40-56 to overcome the rejections. Subsequently, a final Office action was issued on March 31, 2010 in which the examiner made a 112 first paragraph rejection, a 112 second paragraph rejection, a 102(e) rejection on claims 1, 2, 10-13, 26-29, 35-37, 39, 44, 45 and 50 by Robinson (US Patent 5,900,577), and two different 103(a) rejections on claims 3-6, 30, 33, 34, 46 and 47, 51-53, 56, 7-9, 48 49, 54 and 55 using a new combination of art.

Applicant alleges that the finality of the Office action mailed on March 31, 2010 was premature because the new claim 45 is not distinct from original claim 12. As such, the amendment filed on November 2, 2009 could not have necessitated the new grounds of rejection in the final Office action of March 31, 2010.

> Claim 45. A monolithic platform for a firearm, the platform comprising:
> a handguard portion adapted to receive at least a portion of a barrel assembly of the firearm therethrough in a floating relationship therewith;
> an upper receiver portion extending rearwardly from and integrally formed with said handguard portion, said upper receiver portion adapted to receive a bolt carrier therein.
>
> Original claim 1. A monolithic rail platform for a firearm, comprising:
> a handguard portion adapted to receive at least a portion of a barrel assembly of the firearm therein; and
> an upper receiver portion extending rearwardly from and integrally formed with said handguard portion, said upper receiver portion adapted to receive a bolt carrier therein.

Original claim 12. The platform of claim 1, wherein the barrel assembly is attachable to said upper receiver portion and extends through said handguard portion in a floating relationship therewith.

A comparison of the new claim 52 and original claim 12 indicates that claim 45 has a different scope than original claim 12. Original claim 12 has the feature "*the barrel assembly is attachable to said upper receiver portion*" which was absent in the new claim 45. The original claim 1 recites "therein", whereas new claim 45 recites "therethrough" in describing the connection between the handguard portion and a portion of a barrel assembly. These differences render the scope of the new claim 45 distinct from the original claim 12.

In light of 37 CFR 706.07(a) which states that "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)", the finality of the Office action mailed on March 31, 2010 was proper due to the fact that the amendment filed on November 3,2009 necessitated a new ground of rejection.

Any questions or comments with respect to the decision should be forwarded to Quality Assurance Specialist Lanna Mai at (571) 272-6867.

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

lm: 9/28/10
LM

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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Liam Patrick Ellis :
Application No. 10/513,259 : ON APPLICATION FOR
Filed: 05/11/2005 : PATENT TERM ADJUSTMENT
Atty Docket No. :
19777US01 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE 37 CFR § 1.705," filed on October 5, 2010. Applicant asserts that the correct patent term adjustment is 340 days rather than 0 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicant asserts entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

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

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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.

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) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SUITE 3400
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JUN 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,892,235	:	
Liam Patrick Ellis	:	
Issue Date: February 22, 2011	:	DECISION ON APPLICATION
Application No. 10/513,259	:	FOR
Filed: May 11, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 19777US01	:	

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(B) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R § 1.705) AND PETITION FOR SUSPENSION OF RULES UNDER 37 C.F.R. § 1.183," filed on April 22, 2011, requesting reconsideration of the patent term adjustment indicated on the Issue Notification, which is treated as petitions under 37 CFR 1.705(b) and 1.183.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

The petition under 37 CFR 1.183 is **DISMISSED**.

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

Patentee asserts that the first Office action dated July 25, 2006, was "faulty" and was not a "proper notification under 35 U.S.C. 132". Patentee asserts that a period of adjustment for Office delay of 298 days should be entered.

Patentee further asserts that a period of adjustment for Office delay of 119 days should be entered in connection with the examiner's interview held on October 15, 2008, and the mailing of a final Office action on February 11, 2009.

On September 23, 2010, the Office mailed 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 to date is 0 days. An application for patent term adjustment under 37 CFR 1.705(b) was filed on October 5, 2010, but did not raise the issue of a 298 day adjustment for Office delay or a 119 day adjustment for Office delay. Rather, the sole basis of dispute raised in the petition under 37 CFR 1.705(b) filed on October 5, 2010, was the three-year delay period pursuant to § 1.702(b). Accordingly, the initial petition was dismissed as premature on December 6, 2010. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended on October 12, 2010. Both of the bases for Office delay asserted by patentee occurred prior to the mailing of the notice of allowance and initial determination of patent term adjustment. -Accordingly, it is appropriate to dismiss this petition as untimely filed under 1.705(b).

Consideration under 1.705(d) is not appropriate. As stated in MPEP 2730, 1.703(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.

The issues raised should have been timely raised on application for patent term adjustment under § 1.705(b).

Further, 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).

Petitioner has not shown the existence of an extraordinary situation in which justice requires waiver of the rules.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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AUG 02 2011
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In re Patent No. 7,892,235	:	
Liam Patrick Ellis	:	
Issued: 02/22/2011	:	
Application No. 10/513,259	:	ON APPLICATION FOR
Filed: 05/11/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
19777US01	:	

This is a decision in response to the REQUEST FOR RECONSIDERATION OF THE DECISION ON PETITION UNDER 35 U.S.C. 154(B) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705) AND PETITION FOR SUSPENSION OF RULES UNDER 37 C.F.R. § 1.183, filed on July 7, 2011, which is treated as a renewed request for reconsideration under 37 CFR 1.705(b) of the patent term adjustment indicated on the Issue Notification, as well as a renewed petition under 37 CFR 1.183.

The application for patent term adjustment under 37 CFR 1.705(b) is again **DISMISSED AS UNTIMELY FILED**.

The petition under 37 CFR 1.183 is again **DISMISSED**.

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 CFR § 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 this patent.

Patentee again asserts entitlement to (1) an adjustment of 298 days for Office delay should be entered because a "true" Office action was not issued until 14 months and 298 days after the filing date of the application, and (2) an adjustment of 119 days for Office delay in connection with the examiner's interview held on October 15, 2008, and the mailing of a final Office action on February 11, 2009.

Patentee argues that the petition should not be dismissed as untimely because argument (2) above pertains to the calculation of 3 year delay pursuant to 37 CFR 1.705(b), because the mailing of the final Office action necessitated the filing of an RCE.

Patentee further argues that a suspension of the rules under 37 CFR 1.183 is appropriate with regards to argument (1) above such that the Office can determine if justice was served surrounding the delay of an actual Office action issued 298 days after the 14-month deadline as outlined in the petition filed on February 22, 2011. Patentee argues, in pertinent part:

> Applicant clearly demonstrated the delay of the Examiner handling the case could not have been raised in the earlier Petition dated October 5, 2011 (dismissed as premature), because such a delay was calculated purely on PTA standards. Applicant notes that these PTA standards do not take into consideration if the Examiner has issued an Office action with the best prior art reference as set forth in MPEP 706.02(I)(3), but rather these PTA standards only look into the numbers (of days and months) at which Actions and Responses are issued and filed.

37 CFR 1.705 states, in pertinent part:

> (b) Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. An application for patent term adjustment under this

> section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance.
>
> (d) 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.

Patentee's arguments have been considered, but are not persuasive.

At the outset, the decision on application for patent term adjustment mailed on December 6, 2010, stated that:

> 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, application must timely file an application for patent term adjustment prior to the payment of the issue fee.**
>
> (emphasis in original)

The following footnote was also included in the above-referenced decision:

> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a) (i) 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)(I) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Patentee's arguments are both directed to periods of patent term adjustment which were determined at the time of the mailing of the notice of allowance. Specifically, argument (1) involves the 14 month period for mailing the first Office action, pursuant to 37 CFR 1.702(a)(1). Furthermore, argument (2) involves the mailing of a final Office action on February 11, 2009, which was issued prior to the mailing of the notice of allowance. As reconsideration of these periods was not requested prior to payment of the issue fee, a request for reconsideration of them at this time, after payment of the issue fee, is untimely and must be dismissed.

Additionally, patentee's argument that the issues could not have been raised earlier because such a delay was calculated purely on "PTA standards," also lacks merit. Patentee clearly wished to request reconsideration of the patent term adjustment, and therefore was required to file a request for reconsideration within the time periods set forth in the applicable regulations. The mere fact that petitioner believes that it is entitled to additional patent term adjustment because that the examiner erred in issuing an Office action does not permit an applicant to file a request for reconsideration of patent term adjustment outside of the time period set forth in 37 CFR 1.705(b).

Furthermore, patentees' assertion that the argument concerning the final Office action mailed on February 11, 2009, should be considered timely under 37 CFR 1.705(d) because it involves the 3 year delay period is also unconvincing. In particular, the argument patentees raise, that a 119 day period of adjustment for Office delay for issuance of an Office action four months and 119 days after a reply was filed falls squarely under 37 CFR 1.702(a)(2), is wholly separate from the determination of the three year delay under 37 CFR 1.702(b), and is a period of adjustment for which a request for reconsideration must be filed under 37 CFR 1.705(b), prior to the payment of the issue fee, and which will be considered untimely if raised thereafter.

The salient point is that petitioner was required to request reconsideration of both of these arguments prior to payment of the issue fee. Neither issue was timely raised, however, and applicants therefore acquiesced to the patent term adjustment as of the mailing of the notice of allowance. The petition must now be dismissed as untimely.

Alternatively, considered under 37 CFR 1.183, patentee's arguments are not persuasive.

37 CFR 1.183 states 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.

Here, applicant waited until after payment of the issue fee to request reconsideration of the patent term adjustment determination at the time of the mailing of the notice of allowance. There is nothing extraordinary about an applicant delaying the filing of a request for reconsideration of the patent term adjustment. Rather, the delay in filing the request for reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, before or at the time of payment of the issue fee, was an avoidable mistake. A patentee's avoidable mistake in filing papers is not an extraordinary circumstance requiring waiver of the rules.[1] The petitions are therefore again dismissed.

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[1] Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778 (D.D.C. 1994).

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

Douglas I. Wood
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OFFICE OF PETITIONS

In re Application of :
Vlahov, et al. :
Application No. 10/513,372 : ON APPLICATION FOR
Filed: November 3, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 20150-76043 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed October 29, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is four hundred sixty (460) days, not one hundred fourteen (114) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants assert they were incorrectly charged with a 34 day reduction pursuant to 37 CFR 1.704(c)(7) in connection with the retransmission of the copies of the Amended Sheets form the annex to the IPER on June 12, 2007.

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). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the

patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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**.

The Office has updated the PAIR screen by removing 34 days of Applicant delay. The correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is one hundred forty-eight (148) days. A copy of the

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

updated PAIR screen, showing the correct determination, is enclosed.

On July 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 is 114 days. On October 29, 2010, applicants submitted the instant request for reconsideration of patent term.

Applicants dispute the period of reduction of 34 days for the amendment filed on July 19, 2007, in response to the Notice of Non-Compliant Amendment, mailed July 5, 2007.

The instant application is the national stage application of PCT.US03/14969, which was initially filed with 23 claims. In the international stage of the application, a Demand was filed and amendments were provided under Article 34 of the PCT which resulted in a set of 20 claims. Accordingly, an International Preliminary Examination Report (IPER) was prepared which stated that the amended claim set of 20 claims formed the basis of the report. Upon entry into the US national stage, the IPER and accompanying annex with the amendment sheets for the claim set of 20 claims were included. Nevertheless, when the first Office action was issued on December 12, 2006, the claims which were examined were not the 20 claims of the amended claim set from the international stage, but the original set of 23 claims.

Applicants purportedly informed the examiner of this error on May 22, 2007. Applicants assert the examiner requested that applicants submit a transmittal letter and a copy of the Article 34 amendment claims so they could be examined and a new Office action issued. The examiner purportedly indicated that the transmittal letter would be considered responsive to the December 12, 2006 Office action. This belief is reflected in applicants' transmittal letter received June 15, 2007.

When the resubmission was received in the Office it was forwarded to a legal instruments examiner who mailed a Notice of Non-Compliant Amendment on July 5, 2007 because the "amendment" did not contain status identifiers. On July 19, 2007, applicants complied with the July 5, 2007 Notice, but reiterated in the Remarks section that the examiner requested that applicants submit a transmittal letter and a copy of the Article 34 amendment claims so they could be examined and a new Office action issued and that the examiner purportedly indicated that the transmittal letter would be considered responsive to the December 12, 2006 Office action.

A review of the September 12, 2007 non-final Office action reveals that the examiner wished to vacate the December 12, 2006 Office action and issue an Office action directed to the currently pending claims. It is Office policy that only a T.C. Director has authority to vacate an Office action. However, a review of the record substantiates applicants' assertion that the examiner requested applicants to submit a copy of the Article 34 amendment claims 1-20 as found in the IPER. The Examiner did not refute the assertions found in the Remarks section of both the June 15, 2007 filing and the July 19, 2007 filing. There is no rule that the claims from an international stage of an application under the PCT which have been amended under Article 35 be submitted with status identifiers. The claims submitted on June 15, 2007 were only a resubmission of the set of claims included in the original transmission of the national stage application.

Accordingly, the resubmission of June 15, 2007 was not a non-compliant amendment and the period of reduction of 34 days under 37 CFR 1.704(c)(7) will be removed.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **one hundred forty-eight (148) days** (336 days of Office delay - 188 days of applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are 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 in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

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10/513,372 VITAMIN-MITOMYCIN CONJUGATES

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Patent Term Adjustment

Filing or 371(c) Date:	11-03-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	336
A Delays:	336	PTO Manual Adjustments:	34
B Delays:	0	Applicant Delays:	222
C Delays:	0	Total PTA Adjustments:	148

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
106	01-30-2011	Adjustment of PTA Calculation by PTO	34		0
99	07-29-2010	Mail Notice of Allowance			0
98	07-22-2010	Information Disclosure Statement (IDS) Filed			0
97	07-27-2010	Issue Revision Completed			0
96	07-27-2010	Notice of Allowance Data Verification Completed			0
95	07-27-2010	Document Verification			0
94	07-27-2010	Document Verification			0
93	07-26-2010	Notice of Allowability			0
92	05-24-2010	Information Disclosure Statement considered			0
91	07-22-2010	Reference capture on IDS			0
90	07-22-2010	Information Disclosure Statement (IDS) Filed			0
89	07-22-2010	Request for Continued Examination (RCE)			0
88	07-26-2010	Disposal for a RCE / CPA / R129			0
87	07-22-2010	Workflow - Request for RCE - Begin			0
86	05-31-2010	Export to Initial Data Capture			0
85	06-01-2010	Electronic Review			0
84	06-01-2010	Email Notification			0
83	06-01-2010	Mail Notice of Allowance			0
82	05-24-2010	Information Disclosure Statement (IDS) Filed			0
81	05-26-2010	Issue Revision Completed			0

80	05-26-2010	Notice of Allowance Data Verification Completed			0
79	05-26-2010	Document Verification			0
78	05-26-2010	Notice of Allowability			0
77	05-24-2010	Information Disclosure Statement considered			0
76	05-24-2010	Reference capture on IDS			0
75	05-24-2010	Information Disclosure Statement (IDS) Filed			0
74	05-24-2010	Request for Continued Examination (RCE)			0
73	05-25-2010	Disposal for a RCE / CPA / R129			0
72	05-24-2010	Information Disclosure Statement (IDS) Filed			0
71	05-24-2010	Workflow - Request for RCE - Begin			0
70	05-12-2010	Statement Filed Indicating a Loss of Entitlement to Small Entity Status			0
69	04-14-2010	Finished Initial Data Capture			0
68	02-26-2010	Export to Initial Data Capture			0
67	02-24-2010	Electronic Review			0
66	02-24-2010	Email Notification			0
65	02-24-2010	Mail Notice of Allowance	5		58
64	02-19-2010	Issue Revision Completed			0
63	02-19-2010	Document Verification			0
62	02-16-2010	Notice of Allowance Data Verification Completed			0
61	02-16-2010	Case Docketed to Examiner in GAU			0
60	02-16-2010	Notice of Allowability			0
59	12-04-2009	Date Forwarded to Examiner			0
58	10-19-2009	Response after Non-Final Action		2	55
57	07-17-2009	Electronic Review			0
56	07-17-2009	Email Notification			0
55	07-17-2009	Mail Non-Final Rejection			0
54	07-15-2009	Non-Final Rejection			0
53	05-18-2009	Date Forwarded to Examiner			0
52	03-31-2009	Response after Non-Final Action			0
51	12-31-2008	Electronic Review			0
50	12-31-2008	Email Notification			0

49	12-31-2008	Mail Non-Final Rejection		0
48	12-22-2008	Non-Final Rejection		0
47	09-23-2008	Information Disclosure Statement considered		0
46	09-23-2008	Reference capture on IDS		0
45	09-23-2008	Information Disclosure Statement (IDS) Filed		0
44	10-20-2008	Date Forwarded to Examiner		0
43	09-23-2008	Amendment Submitted/Entered with Filing of CPA/RCE		0
42	10-20-2008	Date Forwarded to Examiner		0
41	09-23-2008	Request for Continued Examination (RCE)		0
40	10-20-2008	Disposal for a RCE / CPA / R129		0
39	09-23-2008	Information Disclosure Statement (IDS) Filed		0
38	09-23-2008	Workflow - Request for RCE - Begin		0
37	06-26-2008	Mail Final Rejection (PTOL - 326)		0
36	06-23-2008	Final Rejection		0
35	03-12-2008	Information Disclosure Statement considered		0
34	03-12-2008	Reference capture on IDS		0
33	03-12-2008	Information Disclosure Statement (IDS) Filed	0	31
32	04-08-2008	Date Forwarded to Examiner		0
31	03-12-2008	Response after Non-Final Action	91	28
30	03-12-2008	Request for Extension of Time - Granted		0
29	03-12-2008	Information Disclosure Statement (IDS) Filed		0
28	09-12-2007	Mail Non-Final Rejection		0
27	09-06-2007	Non-Final Rejection		0
26	06-15-2007	Information Disclosure Statement considered		0
25	07-25-2007	Date Forwarded to Examiner		0
24	07-19-2007	Response after Non-Final Action	34	21
23	07-05-2007	Mail Notice of Informal or Non-Responsive Amendment		0
22	07-03-2007	Date Forwarded to Examiner		0
21.1	06-15-2007	Informal or Non-Responsive Amendment after Examiner Action		0
21	06-15-2007	Response after Non-Final Action	95	17
20	06-15-2007	Request for Extension of Time - Granted		0

19	06-15-2007	Information Disclosure Statement (IDS) Filed		0
18	06-15-2007	Information Disclosure Statement (IDS) Filed		0
17	12-12-2006	Mail Non-Final Rejection	331	4
16	11-27-2006	Non-Final Rejection		0
14	02-11-2005	Information Disclosure Statement considered		0
13	05-19-2005	Cleared by OIPE CSR		0
12	05-06-2005	IFW TSS Processing by Tech Center Complete		0
11.7	02-11-2005	Information Disclosure Statement (IDS) Filed		0
11	02-11-2005	Information Disclosure Statement (IDS) Filed		0
7	05-06-2005	Case Docketed to Examiner in GAU		0
6	04-25-2005	Cleared by OIPE CSR		0
5	04-25-2005	Cleared by OIPE CSR		0
4	11-15-2004	371 Completion Date		0
3	04-18-2005	Application Dispatched from OIPE		0
2	04-18-2005	Notice of DO/EO Acceptance Mailed		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).*
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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.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

8/12/2010

Patent No. :7737092
Inventor(s) :Ward jr. et al.
Issued :6/15/2010
Title :CONTINUOUSLY VARIABLE TRANSMISSION FLUIDS COMPRISING A COMBINATION OF CALCIUM-AND MAGNESIUM-OVERBASED DETERGENTS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals item [75] address is printed in accordance with the record please show evidence of supporting data. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

The Lubrizol Corporation
Attn: Docket Clerk, Patent Dept.
29400 Lakeland Blvd.
Wickliffe, OH 44092

HR

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WASHINGTON, DC 20037-3213

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Toru TABUCHI, et *al.*	:	
Application No. 10/513,664	:	DECISION GRANTING PETITION
Filed: January 20, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **Q84572**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 July 21, 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) 272-7253.

This application is being referred to Technology Center AU 1729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

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FEB 09 2012

OFFICE OF PETITIONS

In re Patent of Sollid et al.	:	
Patent No. 7,202,216	:	
Issue Date: April 10, 2007	:	Letter
Application No. 10/514,005	:	
371(c) Date: May 13, 2005	:	
Atty. Docket No. STAN-258US3(S03-156)	:	

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed January 19, 2012.

The deficiency payment of $2,148 is hereby accepted.

The change of status to large entity has been entered and made of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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November 3, 2011

DAY PITNEY LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

Re Application of
FUJIMOTO, KOJI, Et Al
Application: **10/514010**
Filed: **10/27/2004**
Attorney Docket No: **707550.000270**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) October 27, 2004. 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

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Application of	:	ON REQUEST FOR
Michael P. Balogh	:	RECONSIDERATION OF
Application No. 10/514098	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/11/2004	:	and
Attorney Docket Number:	:	NOTICE OF
64631US3(49991)	:	ABANDONMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed March 22, 2011. Applicants' request recalculation of the patent term adjustment calculation to 136 days, not zero (0) 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 a delay of 147 days. The petition is properly treated under 37 CFR 1.705(b).

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 failing to calculate a delay of 147 days is **DISMISSED AS MOOT**.

On December 22, 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 zero (0) days.

The present petition

On March 22, 2011, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from zero (0) days, as indicated on the Determination of PTA mailed December 22, 2010, to an adjustment of 136 days. Applicants aver that the Office failed to calculate a reduction in connection with the mailing of a response to a Request to Withdraw Notice of Allowance and Suggestion of Interference Pursuant to 37 C.F.R. § 41.202 hereinafter ("Request and Suggestion"), filed December 5, 2006. Applicants aver that the Request and Suggestion constituted a reply under 35 U.S.C. 132. Accordingly, Applicants assert an entitlement to a patent term adjustment due to this Office's failure to respond to the Request and Suggestion within four (4) months.

[1] PALM records show that the Issue Fee payment was filed on March 22, 2011.

Applicants also note that the Information Disclosure Statement ("IDS"), filed on December 19, 2007, after filing a reply to an Office action on November 13, 2007, was apparently not deemed to be a supplemental response for patent term adjustment purposes.

Office records

A review of Office records reveals that a Notice of Abandonment was mailed on June 7, 2011.

In view of the foregoing, the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b) is moot, and revival of the application is required.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
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P.O. BOX 55874
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SEP 29 2011

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Michael P. Balogh	:	
Application No. 10/514098	:	
Filing or 371(c) Date: 11/11/2004	:	
Attorney Docket Number:	:	
64631US3(49991)	:	

This is a decision on the "REQUEST FOR HOLDINGN THAT THE SUBJECT APPLICATION WAS NEVER ABANDONED PURSUANT TO M.P.E.P. 711.03(a)," filed August 5, 2011. The request is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **DISMISSED**.

A Notice of Abandonment was mailed on June 7, 2011. The Notice of Abandonment indicated as the reason for abandonment of the application was applicant's failure to respond to a requirement for submission of a claim chart within the statutory time period.

Applicant files the present petition and avers that the claim chart, requested on page three (3) of the Notice of Allowability mailed November 15, 2006, was timely filed on December 5, 2006.

Office records

A review of the application file reveals that the Office mailed an Office communication clarifying the Notice of Abandonment mailed June 7, 2011. The Office communication stated that "[t]he case became abandoned for failure to pay the issue fee within the 3 months of the notice of allowance and not or failing to submit the information required/requested within the statutory time period as mentioned in the notice of abandonment." (Emphasis added).

In view of the foregoing, the petition is dismissed.

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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NOV 21 2011

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Michael P. Balogh	:	
Application No. 10/514098	:	
Filing or 371(c) Date: 11/11/2004	:	
Attorney Docket Number:	:	
64631US3(49991)	:	

This is a decision on the "RENEWED PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT PURSUANT TO 37 C.F.R. § 1.181(a)," filed November 10, 2011.

The petition is **DISMISSED**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed November 15, 2006. The Notice set a non-extendable three (3) month period for reply. Applicant filed a reply to the Notice on December 5, 2006; however, the reply did not include the issue fee. No complete and proper reply having been received, the application became abandoned February 16, 2011.

A Notice Abandonment was mailed on June 7, 2011. The Notice of Abandonment indicated as the reason for abandonment of the application was applicant's failure to respond to a requirement for submission of a claim chart within the statutory time period.

Applicant filed a petition on August 5, 2011, wherein applicant averred that the claim chart, requested on page three (3) of the Notice of Allowability mailed November 15, 2006, was timely filed on December 5, 2006.

September 29, 2011 Decision on petition

A decision dismissing the petition was mailed on September 29, 2011. The decision noted that a review of the application file revealed that subsequent to the mailing of the Notoce of Abandonment, the Office mailed an Office communication clarifying the Notice of Abandonment mailed June 7, 2011. The Office communication stated that "[t]he case became abandoned for failure to pay the issue fee within the 3 months of the notice of allowance and not

or failing to submit the information required/requested within the statutory time period as mentioned in the notice of abandonment." (Emphasis supplied).

In view of the foregoing, the petition was dismissed.

The present renewed petition

Applicant files the present renewed petition and provides that a Notice of Allowance was mailed for the present application on December 22, 2010, setting a non-extendable period for reply of three (3) months, and that applicant timely filed a reply to the Notice of Allowability on March 22, 2011.

Applicant avers, in relevant part, that the Clarification of the Notice of Abandonment mailed September 15, 2011 clarified that the reason for abandonment was that the issue fee was not timely paid by the March 22, 2011 deadline.

Analysis

A review of Office records and of the Office communication mailed September 15, 2011, clarifying the Notice of Abandonment mailed June 7, 2011, stated that "[t]he case became abandoned for failure to pay the issue fee within three months of the Notice of Allowance and not for failing to submit the information required/requested within the statutory period as mentioned in the Notice of Abandonment."

Office records also confirm that the Notice of Abandonment mailed June 6, 2007, which erroneously stated as the reason for abandonment applicant's failure to respond to the requirement for submission of a claim chart within the statutory time period, reveals that the requirement for a claim chart was made in the Notice of Allowability mailed with the Notice of Allowance and Issue Fee Due on November 15, 2006.

It is the November 15, 2006 Notice of Allowability to which applicant's responded in their August 5, 2011 petition, requesting withdrawal of the holding of abandonment in view of applicants timely filing of a claim chart on Dece,ber 5, 2006.

The Office communication mailed September 15, 2011, clarifying the Notice of Abandonment mailed June 7, 2011, clarified that the application became abandoned not for failing to file a claim chart, but for applicant's failure to file a complete and proper reply to the Notice of Allowance and Issue Fee Due, also mailed on November 15, 2006.

Conclusion

In view of the foregoing, the petition is dismissed.

Applicant is again strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application

without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Michael P. Balogh	:	
Application No. 10/514098	:	
Filing or 371(c) Date: 11/11/2004	:	
Attorney Docket Number:	:	
64631US3(49991)	:	

This is a decision on the 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**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed November 15, 2006. The Notice set a non-extendable three (3) month period for reply. Applicant filed a reply to the Notice on December 5, 2006; however, the reply did not include the issue fee. No complete and proper reply having been received, the application became abandoned February 16, 2011.

A Notice Abandonment was mailed on June 7, 2011. The Notice of Abandonment indicated as the reason for abandonment of the application was applicant's failure to respond to a requirement for submission of a claim chart within the statutory time period.

Applicant filed a petition on August 5, 2011, wherein applicant averred that the claim chart, requested on page three (3) of the Notice of Allowability mailed November 15, 2006, was timely filed on December 5, 2006.

September 29, 2011 Decision on petition

A decision dismissing the petition was mailed on September 29, 2011. The decision noted that a review of the application file revealed that subsequent to the mailing of the Notoce of Abandonment, the Office mailed an Office communication clarifying the Notice of Abandonment mailed June 7, 2011. The Office communication stated that "[t]he case became abandoned for failure to pay the issue fee within the 3 months of the notice of allowance and not

or failing to submit the information required/requested within the statutory time period as mentioned in the notice of abandonment." (Emphasis supplied).

In view of the foregoing, the petition was dismissed.

The November 10, 2011 renewed petition

Applicant filed a renewed petition on November 10, 2011 and provided that a Notice of Allowance was mailed for the present application on December 22, 2010, setting a non-extendable period for reply of three (3) months, and that applicant timely filed a reply to the Notice of Allowability on March 22, 2011.

Applicant averred, in relevant part, that the Clarification of the Notice of Abandonment mailed September 15, 2011 clarified that the reason for abandonment was that the issue fee was not timely paid by the March 22, 2011 deadline.

The November 21, 2011 decision on petition

A decision in response to the petition was mailed on November 21, 2011. The decision noted that a review of Office records and of the Office communication mailed September 15, 2011, clarifying the Notice of Abandonment mailed June 7, 2011, stated that "[t]he case became abandoned for failure to pay the issue fee within three months of the Notice of Allowance and not for failing to submit the information required/requested within the statutory period as mentioned in the Notice of Abandonment."

The decision also stated that Office records also confirmed that the Notice of Abandonment mailed June 6, 2007, which erroneously stated as the reason for abandonment applicant's failure to respond to the requirement for submission of a claim chart within the statutory time period, revealed that the requirement for a claim chart was made in the Notice of Allowability mailed with the Notice of Allowance and Issue Fee Due on November 15, 2006.

It was the November 15, 2006 Notice of Allowability to which applicant's responded in their August 5, 2011 petition, requesting withdrawal of the holding of abandonment in view of applicants timely filing of a claim chart on December 5, 2006.

Finally, the decision noted that the Office communication mailed September 15, 2011, clarifying the Notice of Abandonment mailed June 7, 2011, clarified that the application became abandoned not for failing to file a claim chart, but for applicant's failure to file a complete and proper reply to the Notice of Allowance and Issue Fee Due, also mailed on November 15, 2006.

The present petition to revive the application

Applicant files the present petition to revive the application under 37 CFR 1.137(b).

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 and publication fees[1]; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] In response to the Notice of Allowance and Issue Fee Due, mailed November 15, 2006, Applicant filed a Request to Withdraw Notice of Allowance and Suggestion of Interference Pursuant to 37 CFR 41.202, on December 5, 2006; however, the issue fee was not included with the request. On August 30, 2007, the Office subsequently withdrew the application from issue and reopened prosecution, and a Notice of Allowance and Issue Fee Due was mailed on December 22, 2010. Applicant timely filed the issue fee on March 22, 2011.

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED
JAN 19 2012
OFFICE OF PETITIONS

In re Patent No. 7,648,674	:	
Issue Date: 01/19/2010	:	
Application Number: 10/514,165	:	ON PETITION
Filing or 371(c) Date: 11/12/2004	:	
Attorney Docket Number: 22324-00001-US1	:	

This is a decision on the renewed request under 37 CFR 3.81(b),[1] filed on September 2, 2010, 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**.

Receipt of the processing fee of $130.00 required by § 1.17(h), and the certificate of correction fee of $100.00 required by § 1.20(a) are acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

The address in the petition is different than the correspondence address. 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 changed.

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

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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

CONNOLLY BOVE LODGE & HUTZ LLP
1007 NORTH ORANGE STREET
PO BOX 2207
WILMINGTON DE 19899-2207

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AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Application of	:	
Guidice, et al.	:	
Application No. 10/514,207	:	DECISION
Filed/Deposited: 12 November, 2004	:	
Attorney Docket No. PAT051915-US-PCT01	:	

This is a decision on the petition filed on 6 September, 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 **GRANTED**.

As to the Allegations
of Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 8 July, 2010, with reply due absent extension of time on or before 8 October, 2010.

The application went abandoned by operation of law after midnight 8 October, 2010.

(Petitioner filed a Notice of Appeal and fee on 7 January, 2011, with request and fee for extension of time, but failed to perfect the Appeal.)

The Office mailed the Notice of Abandonment on 5 July, 2011.

On 6 September, 2011, Petitioner filed a petition, with fee, pursuant to 37 C.F.R. §1.137(b) with a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and an averment of unintentional delay.

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

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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.[2],[3]

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.

---

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

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

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

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.[4]

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 1645 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the 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.

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[4] 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[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON WI 54016

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Thomas Robert CORBETT :
Application No. 10/514,270 :
Filed: March 29, 2005 :
Attorney Docket No. ARD117USA :

ON PETITION

This is a decision on the petition, filed March 24, 2010, requesting withdrawal of the Notice of Abandonment mailed December 11, 2007 under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed December 11, 2007 for failure to respond to the Office action mailed May 29, 2007 be withdrawn as petitioner timely filed a response. As evidenced by the attached amendment with a certificate of mailing date of November 29, 2007 a response was timely entrusted to the mails. Furthermore, a review of record indicates that the original copy of the response is now in the file.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3644 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101108

DATE : November 8, 2010

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction on Patent No.: 10514668

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:

Approved.

SPE: /Steven B. McAllister/ **Art Unit** 3749

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 26, 2010

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction for Appl. No 10/514668/ patent7654819

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

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

Comments: Approved.

/Steven B. McAllister/ — **SPE**

3749 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Application of :
Cherie M. Chappell et al. :
Application No. 10/514,701 :
Filed: September 13, 2005 :
Attorney Docket No. OMRF:020US/10411016 :

DECISION ON PETITION

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 for failure to properly reply in a timely manner to the non-final Office action mailed September 3, 2010, which set a shortened statutory period for reply of three (3) months. A one month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 4, 2011. A Notice of Abandonment was mailed on July 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1644 for appropriate action by the Examiner in the normal course of business on the reply received August 12, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER &
NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,754,302 :
Issue Date: July 13, 2010 :
Application No. 10/514,728 : DECISION ON PETITION
Filed: July 27, 2005 :
Attorney Docket No. 259655US3PCT :

This is a decision on the Petition For Certificate Of Correction Under 37 CFR § 1.183, filed August 19, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Petition is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form was submitted with Petition.

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

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL-85B and such error was inadvertent. 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.

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 submitted with petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,754,302.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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D PETER HOCHBERG COMPANY
THE BAKER BUILDING
6TH FLOOR
1940 EAST 6TH STREET
CLEVELAND OH 44114-2294

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,100,605	:	ON PETITION
Issued: September 5, 2006	:	
Application No. 10/514,760	:	
Filed: November 17, 2004	:	
Attorney Docket No. MH0935US(#90556)	:	

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

The petition is **GRANTED**.

This patent expired on September 6, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Albert Wai-Kit Chan
Law Offices of Albert Wai-Kit Chan
World Plaza Suite 604
141-07 20th Avenue
Whitestone NY 11357

MAILED

MAR 13 2012

OFFICE OF PETITIONS

In re Patent No. 7,722,876 :
Issue Date: May 25, 2010 :
Application No. 10/514,781 : ON PETITION
Filed: March 2, 2005 :
Attorney Docket No. **990-PCT-US** :

This is a decision on the petition under 37 CFR 1.183 filed August 5, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/10

TO SPE OF : ART UNIT 1764 Jagannathan Vasudevan (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/514854 Patent No.: 7409004

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-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: _____

SPE

1762
Art Unit

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RADER FISHMAN & GRAUER PLLC
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1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Mitsutoshi Shinkai, et al.	:	
Application No. 10/514,946	:	DECISION GRANTING PETITION
Filed: November 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SON-2991	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 24, 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 2, 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 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 2484 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/25/11

TO SPE OF : ART UNIT 1736

SUBJECT : Request for Certificate of Correction for Appl. No.: 10515159 Patent No.: 7871543

CofC mailroom date: 2/14/11

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

Certificates of Correction Branch

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.

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

Comments: 1). Corrects the place name in Germany. 2). Corrects the language in claim-12 which does not change its scope.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Isao Shiromaru, et al.	:	
Application No. 10/515,182	:	DECISION ON PETITION
Filed: June 7, 2005	:	
Attorney Docket No. 80426(302761)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 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 July 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 2, 2010. Accordingly, the date of abandonment of this application is July 3, 2010. The Notice of Abandonment was mailed July 16, 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.

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

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.
10/515,270	05/23/2005	Jerome B. Zeldis	9516-079-999/501872-078	8252

84802 7590 02/17/2012
JONES DAY for Celgene Corporation
222 E. 41ST. STREET
NEW YORK, NY 10017

EXAMINER
PACKARD, BENJAMIN J

ART UNIT	PAPER NUMBER
1612	

MAIL DATE	DELIVERY MODE
02/17/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY for Celgene Corporation
222 E. 41ST. STREET
NEW YORK NY 10017

Applicant: Zeldis
Appl. No.: 10/515,270
Filing Date: May 23, 2005
Title: METHODS FOR TREATMENT OF MULTIPLE MYELOMA USING CYCLOPROPANE CARBOXYLIC ACID {2-(IS)-(3-ETHOXY-4METHOXY-PHENYL)-2-METHANESULFONYL-ETHYL}-3-OXO-2.3-DIHYDRO-1H-ISOINDOL-4-YL}-AMIDE
Attorney Docket No.: 9516-079-999/501872-078
Pub. No.: US 2005/0234017 A1
Pub. Date: October 20, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on February 15, 2012, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. In addition, the applicant has not provided a copy of the application papers for publication purposes. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following

website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 01 2011

OFFICE OF PETITIONS

GlaxoSmithKline
Global Patents-US, UW2220
PO Box 1539
King of Prussia, PA 19406-0939

In re Patent No. 7,547,719
Moore
Issue Date: June 16, 2009
Application No. 10/515,304
Filed: February 22, 2006
Attorney Docket P51352
Title: 3'-[(2Z)-[1-(3,4dimethylphenyl)-1,5-dihydro-3-methyl-5-oxo-4H-Pyrazol-4-YLidene]HY-Drazino]-2"Hydroxy-[1,1'-BiPhenyl}-3-Carboxylic Acid Bis-(Monooethanolamine)

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

This decision hereby vacates the decision that was mailed by the petition attorney on December 16, 2009. The decision is vacated because the USPTO will not act upon the petition once suit is filed until the order from the district court remanding the jurisdiction back to the USPTO. On May 14, 2010 the jurisdiction was remanded to the USPTO and this decision is in response to the order of May 14, 2010.

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 seven hundred and eighty-four (784) 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 seven hundred and eighty four (784) 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 : 7,547,719,

ISSUED : **June 16, 2009** **DRAFT**

INVENTOR(S) : Moore

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 288 days

Delete the phrase "by 288 days" and insert – by 784 days--

Day : Friday
Date: 3/25/2011

PALM INTRANET

Time: 13:49:39

PTA Calculations for Application: 10/515304			
Application Filing Date:	02/22/2006	PTO Delay (PTO):	290
Issue Date of Patent:	06/16/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	784
PTO Delay Adjustment:	496		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	03/25/2011	ADJUSTMENT OF PTA CALCULATION BY PTO	214		
59	12/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	282		
53.5	05/27/2009	PTA 36 MONTHS			
53	06/16/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
52	05/13/2009	EXPORT TO FINAL DATA CAPTURE			
51	05/12/2009	DISPATCH TO FDC			
50	05/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	05/11/2009	ISSUE FEE PAYMENT VERIFIED			
48	05/11/2009	ISSUE FEE PAYMENT RECEIVED			
47	03/16/2009	FINISHED INITIAL DATA CAPTURE			
46	02/13/2009	EXPORT TO INITIAL DATA CAPTURE			
43	02/11/2009	MAIL NOTICE OF ALLOWANCE			
42	02/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	02/09/2009	CASE DOCKETED TO EXAMINER IN GAU			
40	02/09/2009	DOCUMENT VERIFICATION			
39	02/09/2009	ISSUE REVISION COMPLETED			
38	01/21/2009	ALLOWABILITY NOTICE			
37	11/13/2008	DATE FORWARDED TO EXAMINER			
36	11/03/2008	RESPONSE AFTER NON-FINAL ACTION		2	33
35	08/01/2008	ELECTRONIC REVIEW			
34	08/01/2008	EMAIL NOTIFICATION			
33	08/01/2008	MAIL NON-FINAL REJECTION			
32	07/29/2008	NON-FINAL REJECTION			
31	05/23/2008	DATE FORWARDED TO EXAMINER			

30	05/06/2008	RESPONSE AFTER NON-FINAL ACTION			
29	02/07/2008	ELECTRONIC REVIEW			
28	02/06/2008	EMAIL NOTIFICATION			
27	02/06/2008	MAIL NON-FINAL REJECTION	290		-1
26	01/28/2008	NON-FINAL REJECTION			
24	07/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	09/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	12/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	05/24/2007	PRELIMINARY AMENDMENT			
18	12/18/2006	REFERENCE CAPTURE ON IDS			
17.7	12/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16.7	09/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	07/19/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	07/12/2006	REFERENCE CAPTURE ON IDS			
12.7	07/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	05/09/2006	CLEARED BY OIPE CSR			
7	02/22/2006	371 COMPLETION DATE			
6	05/03/2006	APPLICATION DISPATCHED FROM OIPE			
5	05/04/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	02/22/2006	ADDITIONAL APPLICATION FILING FEES			
3	02/22/2006	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

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

Mark Black
P.O. Box 78
Helensvale 4212 AU AUSTRALIA

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Mark Black, et al.	:	
Application No. 10/515,333	:	ON PETITION
Filed: December 2, 2004	:	
Attorney Docket No. A-9359	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 s to timely pay the issue and publication fees on or before May 3, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 4, 2010.

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

Item 2:

The required petition fee of $810 as set forth in 37 CFR 1.17(m) is incomplete. There is still $555 owed to complete the filing of the petition.

Item 3:

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Mark Black) was ever given a power of attorney to act on behalf of inventor Marton Rajnai, 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. ***Note: the petition signature form is not legible.***

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ELMAN TECHNOLOGY LAW, P.C.
P. O. BOX 209
SWARTHMORE PA 19081

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Maureen A. Mckenzie	:	
Application No. 10/515,363	:	DECISION ON PETITION
Filed: November 22, 2004	:	
Attorney Docket No. **DEN2.001-US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 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 August 20, 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 November 21, 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 $810, and (3) a proper statement of unintentional delay.

The petition is hereby **GRANTED**.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Maureen A. Mckenzie
51177 Trail Mountain Court, Suite A
Homer, AK 99603

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.
10/515,372	11/22/2004	Chien-Pin Sherman Hsu	2198-14 B/PCT/US	1942

23869 7590 04/16/2012
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

EXAMINER
WEBB, GREGORY E

ART UNIT	PAPER NUMBER
1761	

MAIL DATE	DELIVERY MODE
04/16/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Mailed: APR 16 2012

In re application of	:	
Chien-Pin Sherman Hsu	:	DECISION ON
Serial No. 10/515,372	:	PETITION
Filed: November 22, 2004	:	
For: **MICROELECTRONIC CLEANING AND ARC REMOVER COMPOSITIONS**		

This is a response to Applicants Petition filed on May 28, 2010 requesting withdrawal of abandonment. The Office mailed a letter on September 18, 2008 noting Applicant's Reply Brief. A notice of non-compliant reply brief was mailed on March 11, 2009. Applicant responded on March 16, 2009. The Examiner sent out a notice on June 5, 2009 noting entry of the Reply Brief. A notice of abandonment was issued by the Office on February 19, 2010.

DECISION

The Petition is **GRANTED**.

The abandonment is withdrawn and the application will be forwarded to the examiner to vacate the Examiner's Answer mailed April 25, 2008 and generate a new Examiner's Answer as instructed by the Board of Patent Appeals and Interferences in the Order mailed March 4, 2009.

/Gladys JP Corcoran/
Director, Technology Center 1700

Gladys Corcoran
Director, Technology Center 1700
Chemical and Materials Engineering

wk

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 10/515,387	Patent Number (if applicable):
First Named Inventor: Kazuyuki YAMANE et al.	Title of Invention: SHAPED CONTAINER OF BIODEGRADABLE, HEAT-RESISTANT AND RIGID RESIN

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Matthew M. Jacob/ Digitally signed by /Matthew M. Jacob/ DN: cn=/Matthew M. Jacob/, o, ou, email=mjacob@wenderoth.com, c=US Date: 2011.03.24 14:57:15 -04'00'	Date March 24, 2011
Name (Print/Typed) Matthew M. Jacob	Practitioner Registration Number 25,154

Note: *Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage 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.

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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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED
APR 06 2011
OFFICE OF PETITIONS

In re Application of :
Kazuyuki YAMANE et al. :
Application No. 10/515,387 : DECISION ON PETITION
Filed: November 23, 2004 :
Attorney Docket No.: 2004 1833A :

This is a decision on the request filed March 24, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 7, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1782 for re-mailing the Office action of January 7, 2011. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Browdy and Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington DC 20006

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Knecht, et al.	:	
Application No. 10/515,417	:	ON APPLICATION FOR
Filed: November 23, 2004	:	PATENT TERM ADJUSTMENT
Docket No. KNECHT1	:	

This is in response to the REQUEST UNDER 37 CFR 1.705(b) FOR RECONSIDERATION OF INITIAL PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE, filed February 3, 2011. Applicants submit that the patent term adjustment to be indicated on the patent is one hundred seventy-seven (177) days, not thirty-two (32) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The application for patent term adjustment is **DISMISSED**.

On November 4, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 32 days. Applicants argue a 144 day adjustment should be entered, pursuant to 37 CFR 1.702(a)(2), for the delay in fully replying to their August 22, 2007 reply.

On August 22, 2007 applicants filed a reply to a non-final Office action. On October 19, 2007, the Office mailed a final Office action. On May 13, 2008, the Office mailed another final Office action. The examiner stated in the May 13, 2008 Office action that the May 13, 2008 Office action was meant to replace the October 19, 2007 Office action and that the October 19, 2007 Office action was vacated.

Applicants argue the October 19, 2007 Office action should be ignored and the May 13, 2008 Office action be considered the response to applicants' August 22, 2007 reply.

Pursuant to 37 CFR 1.703(a)(2), the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under 1.111 was filed 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.

Applicants argue the calculation should begin on December 23, 2007, the date that is 4 months after applicants' reply was filed, and end on May 13, 2008, the date the Office mailed the ***second*** Office action in response. (Applicants state this calculation yields 144 days. However, it yields 143 days.)

Applicants in essence argue that the May 13, 2008 Office action "vacated" the Office action of October 19, 2007, and as such the Office action of October 19, 2007 should be treated as not having been issued for purposes of determining whether the issuance of the patent was delayed due to the failure of the USPTO to take action within 4 months of the date of applicants' filing a reply under 1.111. Applicants' argument has been considered but is not persuasive.

The vacatur of an Office action sets aside or withdraws any rejection, objection or requirement in an Office action, as well as the requirement that the applicant timely reply to the Office action to avoid abandonment under 35 U.S.C. § 133. The vacatur of an Office action signifies that the Office action has been set aside, voided, or withdrawn as of the date of the vacating Office action or notice. The vacatur of an Office action, however, does **not** signify that the vacated Office action is void *ab initio* and is to be treated as if the USPTO had never issued the Office action. The patent examination process provided for in 35 U.S.C. §§ 131 and 132 contemplates that Office actions containing rejections, objections or requirements will be issued, and that the applicant will respond to these Office action, "with or without amendment." (35 U.S.C. § 132(a)). The mere fact that an examiner or other USPTO employee upon further reflection determines that an Office action, or that a rejection, objection or requirement in an Office action, is not correct and must be removed does not warrant treating the Office action as void *ab initio* and as if the USPTO had never issued the Office action.

The USPTO appreciates that there may be situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these would be extremely rare situations, such as the issuance of an Office action or notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance of an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application. That is simply **not** the case in this situation.

Applicants are entitled to day-to-day adjustment if the USPTO delays the issuance of a patent by failing to mail either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first, within 4 months of applicants filing a reply under 1.111. The record of the above-identified application indisputably indicates that the USPTO mailed a final Office action on October 19, 2007, within four months of the filing of applicants' August 22, 2007 reply. The fact that the Office later set aside the final Office action of October 19, 2007 does not negate the fact that a final Office action was mailed on October 19, 2007. Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term adjustment, the Office action entered by the examiner on October 19, 2007, was properly used to determine whether the USPTO delayed the issuance of the above-identified patent by failing to mail either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first, within four months of the filing of applicants' reply under 1.111, per 37 CFR 1.702(a)(2). *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 *Fed. Reg.* 54366 (Sept. 18, 2000) (final rule).

The Office properly entered 0 days of patent term adjustment in connection with the mailing the final Office action on October 19, 2007 and the subsequent mailing of another final Office action on May 13, 2008, and no changes to the patent term calculation will be made.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 32 days (276 - 244).

The Office acknowledges receipt 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). 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 after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OCT 04 2011
OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

In re Patent No. 7,355,025 :
Issued : April 8, 2008 : ON PETITION
Application No. 10/515,477 :
Filed: November 19, 2004 :
Attorney Docket No. **76644-8005.US00** :

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

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.
10/515,559	08/11/2005	Jacques Grootjans	F-849 (31223.00070)	2041

25264 7590 02/07/2011
FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

EXAMINER
SINGH, PREM C

ART UNIT	PAPER NUMBER
1771	

MAIL DATE	DELIVERY MODE
02/07/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JACQUES GROOTJANS *et al.*

Application 10/515,559
Technology Center 1700

DECISION ON PETITION

This is a decision on the "Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. §1.136(a)," filed September 28, 2010 ("Petition to Revive"). The Petition to Revive will be treated as a "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)."

See 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On December 8, 2009, Appellants filed an Appeal Brief.

2. On December 22, 2009, the Patent Appeal Center Specialist issued a Notification of Non-Compliant Appeal Brief (37 CFR 41.37). The Notification granted Appellants a period of one month or thirty days, whichever is longer, within which to file a corrected brief, i.e., until January 22, 2010.

3. On August 11, 2010, Appellants filed a Transmittal Letter. In the Transmittal Letter, Appellants state "First, Appellants respectfully submit that only upon a telephone message left by the USPTO re. the status of the above referenced application and a further review of the file history on PAIR did Appellants find that a Notice of Non-Compliant Appeal Brief was outstanding in the present appeal. Further, upon inspection of the local file, Appellants were unable to find any evidence of receipt of such document. Accordingly, Appellants respectfully submit that such was not received and request re-mailing of such and resetting of the time to respond to such."

4. On September 3, 2010, the Primary Examiner issued a Communication Re: Appeal dismissing the appeal.

5. On the same day, September 3, 2010, the Primary Examiner issued a Notice of Abandonment.

4. On September 28, 2010, Appellants filed the present Petition and an Appeal Brief.

5. In respect to revival of an unintentionally abandoned application, 37 C.F.R. § 1.137(b) provides that:

> (b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
>
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

6. The Petition to Revive was accompanied by:

(a) an Appeal Brief;

(b) the Petition fee; and

(c) A statement that "The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional."

7. There are no facts known by the Office that would cause the Office to question whether either the abandonment or delay in filing the Petition to Revive was unintentional.

8. Since the application was filed after June 8, 1995, on August 11, 2005, no terminal disclaimer is required.

9. A review of the Appeal Brief filed on September 28, 2010 indicates that it is compliance with 37 C.F.R. § 41.37.

DISCUSSION

As indicated above, Appellant has complied with all of the requirements of a petition under 37 C.F.R. § 1.137(b) for revival of an unintentionally abandoned application.

Application 10/515,559

DECISION

In view of the foregoing, the Petition to Revive is GRANTED and the Appeal Brief of January 25, 2010 will be returned to the Examiner for preparation of an Examiner's Answer.

James T. Moore
Acting Chief Administrative Patent Judge

FINA TECHNOLOGY INC
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MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of
Dong-Jin Kim, et al.
Application No. 10/515,560
Filed: November 22, 2004
Attorney Docket No. 428.1130

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.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 21, 2009. Accordingly, the date of abandonment of this application is August 22, 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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the 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

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AUG 17 2010
OFFICE OF PETITIONS

In re Application of
Dong-Jin Kim, et al.
Application No. 10/515,560
Filed: November 22, 2004
Attorney Docket No. 428.1130

DECISION ON PETITION

CORRECTED DECISION

This is a corrected decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 21, 2009. Accordingly, the date of abandonment of this application is August 22, 2009.

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

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 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

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In re Patent No. 7027081
Issue Date: April 11,2006
Application No. 10515640
Filed: December 8,2004
Attorney Docket No. 51900-000-01-003

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

This is a decision on the electronic petition, filed March 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 March 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)
7027081	2006-04-11	10515640	2004-12-08	51900-000-01-003

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.

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	/Stanley H. Kremen/	Date (YYYY-MM-DD)	2011-03-23
Name	Stanley H. Kremen		

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

MAILED
AUG 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Misani et al.	:	DECISION ON REQUEST
Patent Number: 7,691,217	:	FOR RECONSIDERATION OF
Issue Date: 04/06/2010	:	PATENT TERM ADJUSTMENT
Application No. 10/515832	:	and
Filing or 371(c) Date: 07/01/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 07040.0203	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 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 five hundred ninety (590) 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 ninety (590) days is **GRANTED to the extent indicated herein.**

A review of the application file history confirms that a non-final Office action was mailed on January 23, 2008, 14 months and 509 days after the application fulfilled the requirements of 35 U.S.C. 371. Pursuant to 37 CFR 1.704(a)(1) the adjustment of 509 days commenced September 2, 2006, the day after the date the application fulfilled the requirements of 35 U.S.C. 371, and ending on January 23, 2008, the date that the non-final Office action was mailed.

As to the "B" delay, the period is 388 days, not 174 days. Patentee calculated this period based on the date the Request for Continued Examination)"RCE") was filed. However, in an international application, the "B" delay 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). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 1, 2007. However, the calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of December 3, 2007, not December 1, 2007. 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[1]. See PCT Rule 80.5. Accordingly, the commencement date is Monday, December 3, 2007, and the "B" delay ends on December 22, 2008, the day before the RCE was filed, and is 386 days. See, 35 U.S.C. 154(b)(1)(B)(i).

Further as to the "B" delay, the period of adjustment of 386 days is reduced to the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, and the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. 35 U.S.C. 154(b)(2)(A), 37 CFR 1.702(f). In this instance, the period of adjustment of 509 days pursuant to 37 CFR 1.702(a)(1) overlaps with the period of adjustment pursuant to 37 CFR 1.702(b) for a period of 54 days. As such, the patent term adjustment is 731 days (509 days + 386 days – 110 days – 54 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.

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 seven hundred thirty-one **(731)** days.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[1] The commencement date may be earlier than 30 months where (1) an applicant expressly requested early commencement, and completed all requirements under 35 U.S.C. 371(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,691,217 B2

DATED : April 6, 2010

INVENTOR(S) : Misani 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 750 days.

Delete the phrase "by 750 days" and insert – by 731 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

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

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of Corsaro et al. Application No. 10/515,834 In re Patent No. 7,928,321 Filing Date: August 11, 2005 Issue Date: April 19, 2011 Attorney Docket Number: 09875.0330 Title: CURRENT LEAD FOR SUPERCONDUCTING APPARATUS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 3.81(B)

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed August 10, 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 "Prysmian Cavi e Sistemi Energia S.r.l."

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 "Pirelli & C. S.p.A." to "Prysmian Cavi e Sistemi Energia S.r.l."

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 August 28, 2006, listing Prysmian Cavi e Sistemi Energia S.r.l. 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 "Prysmian Cavi e Sistemi Energia S.r.l."

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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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Patent of Ikuo Hayaishi :
Patent No. 7,612,824 :
Issue Date: November 3, 2009 :
Application No. 10/515,948 :
Filing Date: July 26, 2005 :
Attorney Docket No. MIPFP123 :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.183

This is a decision on the "Petition to Suspend Rules" filed June 18, 2010, which is being treated as a petition under 37 C.F.R. § 1.183.

The petition under 37 C.F.R. § 1.183 is **dismissed**.

Background

The application matured into U.S. Patent No. 7,612,824 on November 3, 2009, with a revised patent term adjustment of 689 days.

Patentee did not file a request for reconsideration of the patent term adjustment determination under 37 C.F.R. § 1.705(d) within two months of the date the patent issued.

On January 7, 2010, the Court of Appeals for the Federal Circuit issued a decision in *Wyeth v. Kappos*, 591 F.3d 1364, 93 U.S.P.Q. 2d (BNA) 1257 (Fed. Cir. 2010). The decision stated the Office was using an improper process to determine the number of days of overlap between delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply With the Federal Circuit Court Decision in Wyeth v. Kappos Regarding the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (February 1, 2010) ("Notice"). The Notice indicated the USPTO would permit patent owners to request recalculation of a patent's patent term adjustment up to 180 days after

the grant of the patent in view of the Federal Circuit Court decision in *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010).[1]

The date 180 days after the issuance date of the instant patent is May 2, 2010, which fell on a Sunday. Since May 2, 2010 was a Sunday, a timely request for a request for reconsideration of the patent term adjustment using the procedures set forth in the February 1, 2010 Notice could have been timely filed as late as Monday, May 3, 2010.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" ("*Wyeth* Request") form was filed May 10, 2010, which was 188 days after the issuance date of the patent. The Office issued a decision dismissing the *Wyeth* Request on May 20, 2010.

The instant petition was filed June 18, 2010.

The petition states the *Wyeth* Request was inadvertently mailed without a certificate of mailing on May 3, 2010.

The petition includes a statement by David F. Lee, an attorney of record. Lee states he mailed the *Wyeth* Request on May 3, 2010. A review of the copy of the *Wyeth* Request filed May 10, 2010, indicates David Lee's signature is dated May 3, 2010.

Discussion

In order to comply with 37 C.F.R. § 1.8(a), correspondence must include "a certificate for each piece of correspondence stating the date of deposit or transmission." 37 C.F.R. § 1.8(1)(ii). The *Wyeth* Request filed in this case did not include a certificate of deposit or transmission. The petition appears to be requesting waiver of the requirement for such a certificate.

A requirement of a regulation set forth in Title 37 of the Code of Federal Regulations can be waived in certain cases pursuant to 37 C.F.R. § 1.183, which states,

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Although the Office has reviewed the record and considered the arguments in the petition, the Office is not persuaded the instant situation is an extraordinary situation where justice requires waiver of the requirement for correspondence to include a certificate of deposit or transmission in order to comply with 37 C.F.R. § 1.8(a).

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[1] The Notice stated the Office was *sua sponte* waiving the two-month limit to file a request under 37 C.F.R. § 1.705(d) if request is filed within 180 days of the date the patent issued, the patent issued prior to March 2, 2010, and the sole basis for requesting reconsideration of the patent term adjustment is the Office's pre-*Wyeth* interpretation of 35 U.S.C. § 154(b)(2)(A).

Petitioner has failed to prove the failure to include a certificate of mailing with the *Wyeth* Request was an oversight that could not have been avoided by the exercise of reasonable care.

The Office does not consider a situation arising from a party's failure to exercise reasonable due care and diligence, such as a failure to comply with the provisions of 37 C.F.R. § 1.8 or 37 C.F.R. § 1.10, to be an extraordinary situation where the interests of justice require the granting of relief. [2] For example, "[s]ince the filing of correspondence under 37 CFR 1.10 without the number of the 'Express Mail' mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition."[3]

Petitioner did not mail the Wyeth Request until the last date the request could be timely filed. By waiting to mail the *Wyeth* Request until the last possible day, Petitioner created a risk the *Wyeth* Request might not be timely received by the Office. A party may delay action until the end of the time period for reply. In doing so, however, the party must assume the risk attendant to such delay.[4]

In view of the prior discussion, the record is insufficient to demonstrate the instant situation is an extraordinary situation where justice requires waiver of a regulation.

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[2] *See Nitto Chemical Industry. Co., Ltd. v. Comer*, 39 U.S.P.Q. (BNA) 2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 C.F.R. § 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. § 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. § 1.183); *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 U.S.P.Q. (BNA) 2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 C.F.R. § 1.10(c) in order to grant filing date to patent application, where applicant failed to produce Express Mail customer receipt or any other evidence that application was actually deposited with USPS as Express Mail), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); *Vincent v. Mossinghoff*, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Misunderstanding of 37 C.F.R. § 1.8 not unavoidable delay in responding to Office Action); *In re Merck & Co., Inc.*, 24 U.S.P.Q. (BNA) 2d 1317, 1318 (Comm'r Pats. 1992) ("Inadvertent errors and omissions that could have been prevented by the exercise of ordinary care are not extraordinary situations, as contemplated by the Trademark Rules" (citations omitted)); *Gustafson v. Strange*, 227 U.S.P.Q. (BNA) 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 C.F.R. § 1.8 not extraordinary situation warranting waiver of a rule); *In re Chicago Historical Antique Automobile Museum, Inc.*, 197 U.S.P.Q. (BNA) 289 (Comm'r Pats. 1978) (Since certificate of mailing procedure under 37 C.F.R. § 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation); and *In re Montgomery*, 2010 Commr. Pat. LEXIS 30, *5 (June 23, 2010) ("Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not ... extraordinary circumstances where the interests of justice require the granting of relief..") (*citing In re Tetrafluour Inc.*; 17 U.S.P.Q.2d (BNA) 1160, 1162 (Comm'r Pats. 1990); *In re Bird & Son, Inc.*, 195 U.SP.Q (BNA) 586, 588 (Comm'r Pats. 1977)); *In re Merck & Co., Inc.*, 24 U.S.P.Q.2d (BNA) 1317, 1318 (Comm'r Pats. 1992) ("Inadvertent errors and omissions that could have been prevented by the exercise of ordinary care are not extraordinary situations, as contemplated by the Trademark Rules") (citations omitted); and *In re Reissue Application of Reuser et al.*, 2005 Commr. Pat. LEXIS 22, *29 (Comm'r Pats. 2005) ("Circumstances resulting from petitioner's failure to exercise due care ... are not ... extraordinary circumstances where the interests of justice require the granting of relief.") (citations omitted).

[3] Manual of Patent Examining Procedure § 513(III) (8th ed., Rev. 8, July 2010).

[4] *See Ex Parte Klussmann*, 123 Official Gazette 2811 (1906), and *Stillman v. LaMarque*, 319 F.3d 1199, 1203 (9th Cir. 2003) ("By waiting to the eleventh hour, [petitioner's] lawyer took a risk that something might go awry.")

Telephone inquiries specific to this matter should be directed to Steven Brantley, Senior Petitions Attorney, at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

1 0 AUG 2010

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
SCHMIDT, et al.	:	
Application No.: 10/516,297	:	DECISION ON PETITION
PCT No.: PCT/EP03/06130	:	
Int. Filing Date: 11 June 2003	:	UNDER 37 CFR 1.181
Priority Date: 13 June 2002	:	
Atty Docket No.: 262434US2PCT	:	
For: METHOD AND INSTRUMENT FOR SURGICAL	:	
NAVIGATION	:	

This decision is in response to applicant's "REQUEST TO CORRECT FILING DATE" filed 23 June 2010 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181 to assign a 35 U.S.C. 371 date of 19 December 2005. No petition fee is required.

On 01 March 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) which identified the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date and the date of completion of all 35 U.S.C. 371 requirements as 15 December 2005. Applicant seeks a correction of this date to read 19 December 2005.

A review of the application file, as well as applicant's enclosed stamped postcard receipt finds that the last of the 35 U.S.C. 371 requirements, an executed declaration of the inventors and grantable petition under 37 CFR 1.47 was filed on 19 December 2005. (See also the decision mailed 26 January 2006). As such it is proper to grant applicant's petition at this time.

Applicant's petition under 37 CFR 1.181 is **GRANTED**. The Form PCT/DO/EO/903 mailed 01 March 2006 is hereby **VACATED**.

The application has an international filing date of 11 June 2003 under 35 U.S.C. 363 and will be given a date of **19 December 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Evangelos Gogolides et al.	:	
Application No. 10/516,384	:	DECISION ON PETITION
Filed: July 5, 2005	:	
Attorney Docket No. 30848/40704	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 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 November 12, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 13, 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, 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) 272-4584.

This application is being referred to Technology Center AU 1795 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 4, 2011

TO SPE OF : ART UNIT 3687

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/516445 Patent No.: 7904338 B2

CofC mailroom date: 8-22-11

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

Note: _____

_____

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

Thank You For Your Assistance

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

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

Comments: All IDS have been considered by the Examiner.

V. F

SPE

3687
Art Unit

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Browdy & Neimark
1625 K Street NW
Suite 1100
Washington DC 20006

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,438,901	:
Loessner et al.	: DECISION UPON REMAND AND
Issue Date: October 21, 2008	: RECONSIDERATION OF
Application No. 10/516,507	: PATENT TERM ADJUSTMENT
Filed: December 1, 2004	: AND NOTICE OF INTENT
Attorney Docket No. Loessner1	: TO ISSUE CERTIFICATE OF
Title: Virulent Phages to	: CORRECTION
Control Listeria Monocytogenes	:
in Foodstuffs and In Food	
Processing Plant	

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 six hundred and ninety-nine (699) 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 and ninety-nine (699) 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 : 7,438,901

DATED : October 21, 2008 **DRAFT**

INVENTOR(S) : Loessner 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 258 days

Delete the phrase "by 258days" and insert – by 699 days--

Patent Term Adjustments

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

Application Number*: 10516507 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10516507

Application Filing Date	12/01/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	10/21/2008	Non-Overlapping USPTO Delays:	468
A Delays	468	PTO Manual Adjustment	441
B Delays	0	Applicant Delay (APPL)	210
C Delays	0	Total PTA (days)	699

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
61	09/16/2011		P028	Adjustment of PTA Calculation by PTO	441		0
53	10/21/2008		PTAC	Patent Issue Date Used in PTA Calculation			0
53.5	10/01/2008	12/01/2007	PTA36M	PTA 36 Months	0		0
52	09/16/2008		EFDC	Export to Final Data Capture			0
51	09/15/2008		D1935	Dispatch to FDC			0
50	09/15/2008		PILS	Application Is Considered Ready for Issue			0
49	09/12/2008		SMAL	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27			0
48	09/12/2008		N084	Issue Fee Payment Verified			0
47	09/12/2008		IFEE	Issue Fee Payment Received			0
46	07/05/2008		FIDC	Finished Initial Data Capture			0
45	06/24/2008		IRFND	Request for Refund		120	0
44	06/17/2008		EIDC	Export to Initial Data Capture			0
42	06/13/2008		MN/=.	Mail Notice of Allowance			0
41	06/09/2008		DVER	Document Verification			0
40	06/09/2008		N/=.	Notice of Allowance Data Verification Completed			0
38	06/09/2008		EX.A	Examiner's Amendment Communication			0
37	06/09/2008		CNTA	Allowability Notice			0
39	06/04/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
31	04/29/2008		FWDX	Date Forwarded to Examiner			0
30	04/11/2008	01/12/2008	A...	Response after Non-Final Action		90	19
29	04/11/2008		XT/G	Request for Extension of Time - Granted			0
28	04/11/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
27	03/18/2008		MPTDI-1	Mail-Petition Decision - Dismissed			0
26	03/18/2008		PTDI-1	Petition Decision - Dismissed			0
25	03/18/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
24	03/18/2008		C.AD	Correspondence Address Change			0
23	02/18/2008		PET.	Petition Entered			0
22	02/08/2008		MPTDI-1	Mail-Petition Decision - Dismissed			0
21	02/08/2008		PTDI-1	Petition Decision - Dismissed			0
20	12/28/2007		PET.	Petition Entered			0
19	10/12/2007	06/16/2007	MCTNF	Mail Non-Final Rejection	118		16
18	10/11/2007		CTNF	Non-Final Rejection			0
17	08/10/2007		FWDX	Date Forwarded to Examiner			0
16	02/16/2007		ELC.	Response to Election / Restriction Filed			0
15	01/17/2007	02/01/2006	MCTRS	Mail Restriction Requirement	350		-1
14	01/08/2007		CTRS	Restriction/Election Requirement			0
13	10/12/2006		DOCK	Case Docketed to Examiner in GAU			0
12	06/05/2006		C.AD	Correspondence Address Change			0
11	06/05/2006		PA..	Change in Power of Attorney (May Include Associate POA)			0
9	08/15/2005		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
8	07/27/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
5	07/27/2005		DOCK	Case Docketed to Examiner in GAU			0
3	05/09/2005		OIPE	Application Dispatched from OIPE			0
2	05/09/2005		M903	Notice of DO/EO Acceptance Mailed			0
10	12/01/2004		IDSC	Information Disclosure Statement considered			0
7.7	12/01/2004		M844	Information Disclosure Statement (IDS) Filed			0
7	12/01/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
6	12/01/2004		A.PE	Preliminary Amendment			0
4	12/01/2004		371COMP	371 Completion Date			0
1	12/01/2004		IEXX	Initial Exam Team nn			0

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Bourget Law
P.O. BOX 81
EAU CLAIRE WI 54702-0081

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert E. Click	:	
Application No. 10/516,640	:	DECISION ON PETITION
Filed: December 1, 2004	:	TO WITHDRAW
Attorney Docket No. Paralab 1	:	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 8, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Anthony J. Bourget on behalf of all attorneys/agents associated with customer number 26365. All attorneys/agents associated with customer number 26365 have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Robert E. Click
Paralab, LLC
N8693 1250 Street
River Falls, WI 54022

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/516,640	12/01/2004	Robert E Click	Paralab I

CONFIRMATION NO. 6993

POWER OF ATTORNEY NOTICE

26365
Bourget Law
P.O. BOX 81
EAU CLAIRE, WI 54702-0081

OC000000045304000

Date Mailed: 01/06/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/08/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

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

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SOROKER-AGMON ADVOCATE
AND PATENT ATTORNEYS
NOLTON HOUSE, 14 SHENKAR STREET
HERZELIYA PITUACH 46725 IL ISRAEL

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of :
Nir PADAN :
Application No. 10/516,668 :
Filed: August 12, 2005 :
Attorney Docket No. 4138/41 :

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 9, 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 October 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

This application is being referred to Technology Center AU 3644 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.

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

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SEP 24 2010

OFFICE OF PETITIONS

Don D. Cha
547 Buena Vista Road
Golden CO 80401

In re Application of	:	
Christopher Frederickson et al.	:	
Application No. 10/516,754	:	DECISION ON PETITION
Filed: February 8, 2006	:	
Attorney Docket No. NBT-000200US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 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 October 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2010. A Notice of Abandonment was mailed on May 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 and (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.

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

This application is being referred to Technology Center AU 1618 for appropriate action by the Examiner in the normal course of business on the reply received July 26, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,785	06/27/2005	Aladar A. Szalay	3800002.00055 / 4804US	7336

77202 7590 03/14/2011
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER
BURKHART, MICHAEL D

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
03/14/2011	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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MAR 1 4 2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:
McDonald et al.
Serial No.: 10/516,785
Filed: February 24, 2006
Attorney Docket No: **3800007.00006 / 601F**

: PETITION DECISION

This is in response to the petition filed on January 7, 2011 under 3 7 CFR 1.181 to correct the misclassification of submitted Information Disclosure Statements. Specifically, applicants request correction of the classification in PAIR of the Information Disclosure Statements submitted on October 18, 2007; July 10, 2008; and December 14, 2009 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on October 18, 2007; July 10, 2008; and December 14, 2009. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. A copy of the misclassified Information Disclosure Statements filed on October 18, 2007; July 10, 2008; and December 14, 2009 is attached.

The submitted Information Disclosure Statement included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" (October 18, 2007, "Transmittal Letter" of 3 pages; July 10, 2008, "Transmittal Letter" of 4 pages; and December 14, 2009, "Transmittal Letter" of 2 pages). Consequently the information contained therein may not be considered or reviewed by the Examiner."

Applicants' argument has been accorded careful consideration and is persuasive. PAIR will be corrected to reflect the misclassification of the submitted Information Disclosure Statements of October 18, 2007; July 10, 2008; and December 14, 2009.

DECISION

The petition is **GRANTED.**

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, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-25-12

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10516839 Patent No.: 7897610

CofC mailroom date: 01-30-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE /Janet L. Andres/ **Art Unit** 1625

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,589,641	:
Wobben	: VACATED DECISION AND DECISION
Issue Date: September 15, 2009	: ON REQUEST FOR
Application No. 10/517,130	: RECONSIDERATION ON
Filed: June 29, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No.	:
970054.482USPC	:
Title: Hazard Navigation Light	:
For Wind Turbines	:

This decision vacates the petition decision mailed on April 21, 2010. This decision also addresses the Request for Reconsideration of Patent Term Adjustment filed May 20, 2010.

Upon review of the record it is determined that no error was found in the petition decision mailed on March 22, 2010.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT** it is extended or adjusted by **five hundred forty-nine (549)** days.

In light of the issuance of certificate of correction on April 27, 2010, a new certificate of correction is not required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 08042010

DATE : 3/5/10

TO SPE OF : ART UNIT 2882 Edward Glick (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/517325 Patent No.: 7286632

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.

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

Comments:

/Edward Glick/ — **SPE**

2882 — **Art Unit**

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

MAILED
DEC 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Bastien et al.	:	
Application No. 10/517,391	:	DECISION ON PETITION
Filed: August 23, 2005	:	
Attorney Docket Number: 05725-1204	:	

This is a decision on the petition, filed December 7, 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 **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This application was held abandoned for failure to timely respond to the Notice of Panel Decision from Pre-Appeal Brief Review ("Notice") of June 7, 2011, which set a one (1) month period for reply.

Petitioner contends this application was prematurely abandoned because the Notice of Panel Decision from Pre-Appeal Brief Review reset the reply period of one month from the mailing of the Panel decision. Petitioner contends the appeal brief was not due until December 7, 2011.

The Notice provided states the time period for filing an appeal brief will be the later of the two month period set in 37 CFR 41.37(a) or one month from mailing of the decision on the Pre-Appeal Brief Request For Review, whichever is greater. Further, the time period for filing of the appeal brief is extendable under 37 CFR 1.136 based upon the mail date of the decision on the request or the receipt date of the notice of appeal, as applicable. However, the maximum time period for extension of time could not exceed November 26, 2011

As such, the application was properly held abandoned.

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 the undersigned at (571) 272-3215.

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

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JAN 23 2012

OFFICE OF PETITIONS

In re Application of	:	
Bastien et al.	:	
Application No. 10/517,391	:	DECISION ON PETITION
Filed: August 23, 2005	:	
Attorney Docket Number: 05725-1204	:	

This is a decision on the petition, filed December 7, 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 decision mailed on December 16, 2011 is hereby **VACATED**.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Panel Decision from Pre-Appeal Brief Review ("Notice") of March 30, 2011, which set a one (1) month period for reply.

Petitioner contends this application was prematurely abandoned because the Notice of Panel Decision from Pre-Appeal Brief Review reset the reply period of one month from the mailing of the Panel decision. Petitioner contends the appeal brief was not due until December 7, 2011.

The Notice provided states the time period for filing an appeal brief will be the later of the two month period set in 37 CFR 41.37(a) or one month from mailing of the decision on the Pre-Appeal Brief Request For Review, whichever is greater. Further, the time period for filing of the appeal brief is extendable under 37 CFR 1.136 based upon the mail date of the decision on the request or the receipt date of the notice of appeal, as applicable. As such petitioner was able to purchase an additional five months. Thus the appeal brief submitted on December 7, 2011 with the five month extension of time is timely.

Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Panel Decision from Pre-Appeal Brief Review of June 7, 2011 is hereby withdrawn and the application restored to pending status.

This application is being referred to art unit 3626 for appropriate action in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

/Charlema Grant/

Charlema Grant
Attorney Advisor
Office of Petitions

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Licata & Tyrrell
66 East Main Street
Marlton NJ 08053

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In re Patent No. 7,754,236 :
Issued: July 13, 2010 :
Application No. 10/517,468 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: December 6, 2004 :
Dkt. No.: KUZ-0021 :

This is a decision on the petition filed August 24, 2010 requesting that the patent term adjustment of 1476 days for the above-identified patent be increased 35 days. This matter is being properly treated pursuant to 37 CFR 1.705(d).

The petition is hereby **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,754,236 on July 13, 2010. The patent issued with 1476 days of patent term adjustment. The instant request under 37 CFR 1.705(d) is timely filed. Patentee argues that the adjustment pursuant to 37 CFR 1.703(b) is improperly reduced 35 days.

The petition has been carefully considered, but is not persuasive.

In an international application, the period of adjustment under 37 CFR 1.703(b) 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 June 7, 2002. The requirements for early commencement were not met; accordingly, the national stage commenced in this application on December 7, 2004. The period of adjustment pursuant to 37 CFR 1.703(b) commenced December 8, 2007 and ended July 13, 2010.

However, in accordance with 37 CFR 1.702(b)(4), any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court is not included in the period of adjustment pursuant to 37 CFR 1.702(b). Thus, in accordance with 37 CFR 1.703(b)(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. 45, 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.

Accordingly, the period of adjustment under 37 CFR 1.703(b) does not include the period of time from the filing of the Notice of Appeal on March 19, 2010 to the mailing of the Notice of Allowance on April 23, 2010, as the appeal did not result in a decision by the Board.

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Receipt is hereby acknowledged of the $200.00 fee required per 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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AUG 27 2010

OFFICE OF PETITIONS

LaHive & Cockfield LLP
Floor 30, Suite 300
One Post Office Square
Boston, MA 02109

In re Patent No. 7,419,999	:
Araldi et al.	: DECISION UPON REMAND AND
Issue Date: September 2, 2008	: RECONSIDERATION OF
Application No. 10/517,626	: PATENT TERM ADJUSTMENT
Filed: July 28, 2005	: AND NOTICE OF INTENT
Attorney Docket No. SNI-003US	: TO ISSUE CERTIFICATE OF
Title: Gamma Lactams as	: CORRECTION
Prostaglandin Agonists and Use	:
Thereof	

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 two hundred ninety-one (291) 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 two hundred ninety-one (291) 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 : 7,419,999 B2

DATED : **September 2, 2008** **DRAFT**

INVENTOR(S) : Araldi 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 214 days

Delete the phrase "by 214 days" and insert – by 291 days--

Day : Wednesday

PALM INTRANET

Date: 8/18/2010
Time: 11:47:31

PTA Calculations for Application: 10/517626			
Application Filing Date:	07/28/2005	PTO Delay (PTO):	77
Issue Date of Patent:	09/02/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	53
Post-Issue Petitions:	0	Total PTA (days):	291
PTO Delay Adjustment:	267		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	08/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	77		
57	06/08/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	190		
53.5	08/13/2008	PTA 36 MONTHS			
53	09/02/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
52	07/29/2008	EXPORT TO FINAL DATA CAPTURE			
51	07/28/2008	DISPATCH TO FDC			
50	07/28/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	07/25/2008	ISSUE FEE PAYMENT VERIFIED			
48	07/25/2008	ISSUE FEE PAYMENT RECEIVED			
47	07/18/2008	FINISHED INITIAL DATA CAPTURE			
46	04/28/2008	EXPORT TO INITIAL DATA CAPTURE			
45	04/25/2008	MAIL NOTICE OF ALLOWANCE			
44	04/25/2008	ISSUE REVISION COMPLETED			
43	04/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	04/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
41	04/25/2008	DOCUMENT VERIFICATION			
40	04/25/2008	NOTICE OF ALLOWABILITY			
39	04/15/2008	DATE FORWARDED TO EXAMINER			
38	03/21/2008	RESPONSE AFTER NON-FINAL ACTION			
37	12/21/2007	MAIL NON-FINAL REJECTION			
36	12/20/2007	NON-FINAL REJECTION			
35	11/27/2007	DATE FORWARDED TO EXAMINER			
34	11/16/2007	AMENDMENT AFTER FINAL REJECTION		30	31
33	11/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

32	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
31	07/17/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	07/09/2007	FINAL REJECTION			
25	04/26/2007	DATE FORWARDED TO EXAMINER			
24	04/06/2007	RESPONSE AFTER NON-FINAL ACTION		23	22
23	04/06/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	12/14/2006	MAIL NON-FINAL REJECTION	77		-1
21	12/11/2006	NON-FINAL REJECTION			
18	12/08/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/28/2005	REFERENCE CAPTURE ON IDS			
12	12/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	09/22/2005	TRANSFER INQUIRY TO GAU			
10	09/21/2005	CLEARED BY OIPE CSR			
9	09/21/2005	CLEARED BY OIPE CSR			
8	09/21/2005	CLEARED BY OIPE CSR			
7	07/28/2005	371 COMPLETION DATE			
6	09/19/2005	APPLICATION DISPATCHED FROM OIPE			
5	09/19/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	07/28/2005	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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,950	10/03/2005	Darras L J Hancock	U 015536-8	7243

140 7590 10/12/2011
LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK, NY 10018-3738

EXAMINER
CHEN, JOSE V

ART UNIT	PAPER NUMBER
3637	

NOTIFICATION DATE	DELIVERY MODE
10/12/2011	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):

nyuspatactions@ladas.com
nymail@ladas.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 11 2011

LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

In re Application of Darras L. J. Hancock.	:	DECISION ON PETITION
Appl. No. 10/517,950	:	UNDER 37 CFR 1.181
Filed: October 3, 2005	:	
For: BENCH GUARD	:	

This is a decision on applicant's petition filed on June 29, 2011 to request supervisory review of the final Office action mailed on September 29, 2010. Applicant also requests that the next Office action be made non-final, and that said action be reviewed and co-signed by the examiner's supervisor. The petition is considered to be filed under 37 CFR 1.181.

The petition is **DISMISSED.**

Applicant argues that the deficiencies in the Office action mailed on September 29, 2010 has resulted in added time and cost to the applicant. Applicant contends that the instant application has been undergoing examination in the U.S. for over six years and the objection and rejection made in the Office action without clearly and specifically explaining what was deficient have served to prolong time and expense of prosecution.

A review of the record reveals that a first non-final Office action was mailed on July 29, 2008, followed by a first final Office action mailed on April 27, 2009 responsive to applicant's amendment of January 29, 2009, and followed by a supplemental final rejection mailed on July 9, 2009. An advisory action mailed on December 16, 2009 responsive to an after final amendment filed on December 4, 2009. A second non-final Office action was mailed on January 19, 2010 responsive to a request for continued examination (RCE) filed on December 28, 2009. A second final Office action was mailed on September 29, 2010 responsive to an amendment filed on July 19, 2010. A notice of appeal was filed on March 29, 2011. Applicant filed a second RCE concurrently with the instant petition on June 29, 2011.

The record shows that an amendment replying to the final Office action of September 29, 2010, a Request for Continued Examination (RCE) filed under 37 CFR 1.114 and the associated fee were timely submitted on June 29, 2011. MPEP 706.07 (h) which states that "the Office will withdraw the finality of any Office action and the submission will be entered and considered." The RCE was processed to withdraw the finality of the Office action of September 29, 2010 and the amendment was entered in accordance with Rule 37 CFR 1.114 and MPEP 706.07 (h). Whether the next Office action is a non-final or final Office action depends on whether the claims meet the conditions sets forth in MPEP 706.07(b).

37 CFR 1.181 (f) states that "*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.*"

It is noted that the instant petition was filed on June 29, 2011, which is nine (9) months after the September 29, 2010 mailing of the final Office action from which relief is requested. Therefore, the petition is dismissed as being untimely in accordance with 37 CFR 1.181 (f) cited above.

Regarding applicant's allegation that the examiner simply repeats identical language from the previous Office action on the rejection under 35 USC 112, second paragraph on claims 9 and 11 without explaining what is indefinite about the amended claims. It is noted that applicant raised a question on the merits which is appealable matter, not a petitionable matter, and therefore will not be addressed herein.

Regarding applicant's arguments on the prior art rejections of the claims, it is noted that where differences of opinion concern the denial of patent claims because of prior art, and the questions thereby raised relate to the merits, then the appeal process has long been provided by statute. The MPEP clearly states under 37 CFR 1.191(a) that an applicant for a patent dissatisfied with the examiner's decision in the second or final rejection of his or her claims may appeal to the Board for review of the examiner's rejection. Thus, the rejections of the pending claims 1, 3, 4, 7-9, 11-14, 16, 19-22 and 27-29 on the references Cyrluk and Lindstrom are a matter appealable to the Board of Appeals and Interferences (the Board). The correctness of the examiner's position is an appealable issue, not a petitionable issue, and therefore will not be addressed herein.

It is further noted that applicant's actions in repeatedly extending the response period to six months to reply to an Office action, and filing the RCEs have resulted in added time and cost to the application. Moreover, a review of the office actions dated September 29, 2010 finds that there is no evidence of any arbitrary or capricious actions on the part of the examiner assigned to examine the instant application. The fact that applicant does not agree with the examiner's position or otherwise desires a more detailed explanation to be convinced is immaterial to the question of whether or not the rejections are improper. Since the examiner is a primary examiner who is delegated full signatory authority to sign his own actions, a review and signature of the examiner's supervisor is not necessary for the next Office action.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at 571-272-6867.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
571-272-5250

km/lm:9/28/11

LM

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/03/2010

Applicant	: Dominique Ausserre	: DECISION ON REQUEST FOR
Patent Number	: 7652762	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/518,075	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1026** 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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McDonnell Boehnen Hulbert & Berghoff LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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OFFICE OF PETITIONS

In re Patent No. 7,629,341	:
Bannen et al.	: DECISION UPON REMAND AND
Issue Date: 12/8/2009	: RECONSIDERATION OF
Application No. 10/518,110	: PATENT TERM ADJUSTMENT
Filed: October 26, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 02-280-F	: TO ISSUE CERTIFICATE OF
Title: Human Adam-10 Inhibitors	: 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 nine hundred and forty (940) 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 forty (940) 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 : 7,629,341

DATED : December 08, 2009 **DRAFT**

INVENTOR(S) : Bannen 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 506 days

Delete the phrase "by 506 days" and insert – by 940 days--

Day : Wednesday

PALM INTRANET

Date: 2/9/2011
Time: 12:12:55

PTA Calculations for Application: 10/518110			
Application Filing Date:	10/26/2005	PTO Delay (PTO):	604
Issue Date of Patent:	12/08/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	98
Post-Issue Petitions:	0	Total PTA (days):	940
PTO Delay Adjustment:	434		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
105	02/09/2011	ADJUSTMENT OF PTA CALCULATION BY PTO	434		
100.5	11/18/2009	PTA 36 MONTHS			
100	12/08/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
99	10/22/2009	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
98	11/06/2009	EXPORT TO FINAL DATA CAPTURE			
97	11/05/2009	DISPATCH TO FDC			
96	11/05/2009	FILING RECEIPT - CORRECTED			
95	11/05/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
94	11/04/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
91	10/22/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		15	95
90	10/27/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
89	10/22/2009	ISSUE FEE PAYMENT VERIFIED			
88	10/22/2009	ISSUE FEE PAYMENT RECEIVED			
87	10/14/2009	FINISHED INITIAL DATA CAPTURE			
86	09/04/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
85	09/04/2009	CORRESPONDENCE ADDRESS CHANGE			
84	07/28/2009	EXPORT TO INITIAL DATA CAPTURE			
82	07/23/2009	MAIL NOTICE OF ALLOWANCE			
81	07/20/2009	ISSUE REVISION COMPLETED			
80	07/13/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
79	07/13/2009	DOCUMENT VERIFICATION			

78	07/13/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
77	07/13/2009	CASE DOCKETED TO EXAMINER IN GAU			
76	06/22/2009	EXAMINER'S AMENDMENT COMMUNICATION			
75	06/22/2009	NOTICE OF ALLOWABILITY			
74	06/19/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
73	04/20/2009	DATE FORWARDED TO EXAMINER			
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70	02/24/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
69	12/23/2008	MAIL NON-FINAL REJECTION			
68	12/22/2008	NON-FINAL REJECTION			
67	12/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	12/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	12/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	12/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		18	61
62	12/11/2008	DATE FORWARDED TO EXAMINER			
61	11/21/2008	RESPONSE TO ELECTION / RESTRICTION FILED		65	57
60	12/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	10/24/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
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57.1	09/17/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
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56	08/21/2008	MAIL RESTRICTION REQUIREMENT	604		22
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51	01/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
50	12/27/2007	REFERENCE CAPTURE ON IDS			
49	12/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	12/17/2007	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

47	12/17/2007	FILED			
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45	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	07/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
41	02/16/2007	CORRESPONDENCE ADDRESS CHANGE			
40	02/16/2007	CORRESPONDENCE ADDRESS CHANGE			
39	12/19/2006	CORRESPONDENCE ADDRESS CHANGE			
38	09/14/2006	CORRESPONDENCE ADDRESS CHANGE			
37	06/01/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
36	06/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
34	05/25/2006	CLEARED BY OIPE CSR			
33	05/25/2006	CLEARED BY OIPE CSR			
32	05/25/2006	CLEARED BY OIPE CSR			
31	05/25/2006	CLEARED BY OIPE CSR			
30	05/25/2006	CLEARED BY OIPE CSR			
29	05/25/2006	CLEARED BY OIPE CSR			
28	05/25/2006	CLEARED BY OIPE CSR			
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26	05/25/2006	CLEARED BY OIPE CSR			
25	05/25/2006	CLEARED BY OIPE CSR			
24	05/25/2006	CLEARED BY OIPE CSR			
22	10/26/2005	371 COMPLETION DATE			
21	05/22/2006	APPLICATION RETURN FROM OIPE			
20	05/22/2006	APPLICATION RETURN TO OIPE			
18	05/22/2006	APPLICATION RETURN FROM OIPE			
17	05/23/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
16	05/22/2006	APPLICATION RETURN TO OIPE			
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13	05/23/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
12	10/26/2005	ADDITIONAL APPLICATION FILING FEES			
9	10/26/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	05/18/2006	CORRESPONDENCE ADDRESS CHANGE			
7	05/19/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			

6	04/05/2006	MAIL-PETITION DECISION - GRANTED			
5	10/26/2005	PETITION ENTERED			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ANDREA Q. RYAN
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BRIDGEWATER NJ 08807

In re Patent No. 7,781,455 :
Issued: August 24, 2010 :
Application No. 10/518,114 : LETTER REGARDING
Filed: March 21, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. SSL0102 US PCT :

This letter is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed October 15, 2010. Patentees argue that the patent term adjustment should be 1075 not 1173 as indicated in the Issue Notification.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On August 24, 2010, the above-identified application matured into U.S. Patent No. 7,781,455 with a revised patent term adjustment of 1173 days. On October 15, 2010, Patentees submitted the instant application. Patentees disclose that the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) shown on the face of the above-captioned patent appears to be in error and believe the calculation of the patent term adjustment period is, in fact, less than that calculated by the Office.

In an international application, the over 3 year pendency 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). In this instance, the national stage commencement date is December 14, 2004 (not March 21, 2005, the date used by patentees for this calculation). The priority date of this application is June 14, 2002. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-month period. Thus, the over 3 year period began on December 14, 2007 and ended on January 21, 2010, the day before the filing of the Request for Continued Examination (RCE).

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

The Office acknowledges the 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

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SERGEY MATASOV
RANKA DAMBIS 7/1-55
RIGA 1048 LV LATVIA

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Matasov :
Application No. 10/518,218 :
Filed: 15 December, 2004 :
Attorney Docket No. (None) :

DECISION

This is a decision on the petition filed on 22 July, 2010, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

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

As to Allegation of
Unavoidable Delay

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

Petitioner does not appear to have satisfied—and appears unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

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

BACKGROUND

Following a 1 June, 2009, reply to an 11 March, 2009, Office action, Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 9 September, 2009, with reply due absent extension of time on or before 9 October, 2009.

The application went abandoned by operation of law after midnight 9 October, 2009.

Petitioner submitted papers on 19 October, 2009, but with no request and fee for extension of time to make timely the submission.

The Office mailed on 3 February, 2010, and again on 4 February, 2010, a Notice of requirement for fees to make timely the reply.

Petitioner appeared to submit papers *via* FAX on 9 March, 2010, and the papers appeared to be unclear and/or incomplete.

Petitioner appeared to submit fees *via* FAX on 9 March, 2010, however, the fees were for a petition, which at the time was inappropriate, and the fee submission was insufficient for an extension of time.

The Office mailed the Notice of Abandonment on 10 June, 2010.

On 22 July, 2010, Petitioner filed, *inter alia*, a petition (there were five (5) pages submitted, but only one (1) page with content and four (4) pages blank) with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), but without the required reply—Petitioner **must** submit a reply to the Notice of Non-Compliant Amendment—and it is noted that Petitioner also appears unable to satisfy the showing required as to unavoidable delay under the Rule.

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

Thus, it is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

> **...Unavoidable Delay**
>
> *As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See* Maldague, *10 USPQ2d at 1478.*

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).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a*

timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the peti-

tion is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(a)] was unavoidable" or even make an appropriate statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(b)] was unintentional."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, and any terminal disclaimer required by 37 C.F.R. §1.137(c).
Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

***

Petitioner has not satisfied the requirements under the Rule and as discussed above.

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 <u>and</u> all others who make representations before the Office **must** inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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

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.[2]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

---

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

[2] 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).

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) 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 and http://www.uspto.gov/web/forms/sb0064.pdf)

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

SERGEY MATASOV
RANKA DAMBIS 7/1-55
RIGA 1048 LV LATVIA

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Matasov	:	
Application No. 10/518,218	:	DECISION
Filed: 15 December, 2004	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 1 November, 2010, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

NOTE:

Petitioner must pay the fee for the petition (*see*: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp).

Petitioner must file a reply to the Notice of Non-Compliant Amendment.

Petitioner may find it beneficial to review the statutes (35 U.S.C.), rules (37 C.F.R) and policy (MPEP) prior to submitting materials and any renewed petition in order to ensure compliance.

The 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 showing/statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have addressed satisfactorily the reply and statement/showing requirements under the rule—Petitioner should also review the materials to ensure that he has satisfied the reply requirements. These deficiencies must be overcome on any renewed petition.

BACKGROUND

Following a 1 June, 2009, reply to an 11 March, 2009, Office action, Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 9 September, 2009, with reply due absent extension of time on or before 9 October, 2009.

The application went abandoned by operation of law after midnight 9 October, 2009.

Petitioner submitted papers on 19 October, 2009, but with no request and fee for extension of time to make timely the submission.

The Office mailed on 3 February, 2010, and again on 4 February, 2010, a Notice of requirement for fees to make timely the reply.

Petitioner appeared to submit papers *via* FAX on 9 March, 2010, and the papers appeared to be unclear and/or incomplete.

Petitioner appeared to submit fees *via* FAX on 9 March, 2010, however, the fees were for a petition, which at the time was inappropriate, and the fee submission was insufficient for an extension of time.

The Office mailed the Notice of Abandonment on 10 June, 2010.

On 22 July, 2010, Petitioner filed, *inter alia*, a petition (there were five (5) pages submitted, but only one (1) page with content and four (4) pages blank) with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), but without the required reply—Petitioner was reminded that he **must** submit a reply to the Notice of Non-Compliant Amendment—and it is noted that he appeared unable to satisfy the showing required as to unavoidable delay under the Rule. The petition was dismissed on 30 August, 2010.

On Monday, 1 November, 2010, Petitioner filed, *inter alia*, a petition without fee, averring unintentional delay pursuant to 37 C.F.R. §1.137(b), without the required reply, and made the statement of unintentional delay.

Petitioner **must** submit the fee (*see*: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp) for the petition **and** a reply to the Notice of Non-Compliant Amendment (copy enclosed).

Petitioner **must** overcome these deficiencies on any renewed petition.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.[2],[3]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(II) the requirements for a proper showing for relief pursuant to 37 C.F.R. §1.137(b) in these matters.

---

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

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

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

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 statement/showing 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[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

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.
10/518,218	08/04/2005	Sergey Matasov		5732

7590 09/09/2009

Sergey Matasov
Ranka dambis 7/1-55
Riga, 1048
LATVIA

EXAMINER
KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
3739	

MAIL DATE	DELIVERY MODE
09/09/2009	PAPER

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

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

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/518,218	Applicant(s) MATASOV, SERGEY	
	Examiner MATTHEW J. KASZTEJNA	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Matthew J Kasztejna/ Primary Examiner, Art Unit 3739	9/1/9

Continuation of 4(e) Other: Claims have not been properly amended and/or canceled according to MPEP 714 .

UNITED STATES 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 19, 2011

In re Application of :

Andrew Miller

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10518427

Filed : 30-Sep-2005

Attorney Docket No : CU-4022 RJS

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 19, 201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 1621 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10518427
Filing Date	30-Sep-2005
First Named Inventor	Andrew Miller
Art Unit	1621
Examiner Name	KARL PUTTLITZ
Attorney Docket Number	CU-4022 RJS
Title	SULFUR-CONTAINING PHOSPHOLIPID DERIVATIVES

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Erin Sommers/
Name	Erin Sommers
Registration Number	60974

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

MAILED
FEB 21 2012
OFFICE OF PETITIONS

In re Application of

Andrew David Miller, et al.
Application No. 10/518,427
Filed: September 30, 2005
Attorney Docket No. CU-4022 RJS

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 January 17, 2012.

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 Richard J. Streit on behalf of all attorneys of record who are associated with customer No. 26530. All attorneys/agents associated with the Customer Number 26530 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is a Notice of Allowance and Fee(s) Due mailed January 6, 2012 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.
All other inquiries concerning this application should be directed the Office of Data Management at their hotline 571-272-4200.

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

cc: ANDREW DAVID MILLER
17 FAIRLAWN GROVE
LONDON W4 5EJ UK

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
10/518,427	09/30/2005	Andrew David Miller	CU-4022 RJS

CONFIRMATION NO. 6762

POWER OF ATTORNEY NOTICE

26530
LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

OC000000052454650

Date Mailed: 02/07/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2012.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 22 2010

TO SPE OF : ART UNIT 1791
SUBJECT : Request for Certificate of Correction for Appl. No/10/518475 /pat. /7687007

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

FOR IFW FILES: Should "title" be changed?

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

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

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

Comments: _____

/Joseph S. Del Sole/ — **SPE**

1743 — **Art Unit**

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NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC
220 MASSACHUSETTS AVENUE
CAMBRIDGE, MA 02139

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of
Salah-Dine Chibout, et al.
Application No. 10/518,575
Filed: August 4, 2005
Attorney Docket No. DC4-32567A

DECISION ON PETITION

This is a decision on the petition, filed November 16, 2009, 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 mailed November 8, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 8, 2009.

Petitioner asserts that the Office action dated November 8, 2008 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 1634 for re-mailing the Office action of November 7, 2008. The period for reply will run from the mailing date of the Office action.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,837	12/21/2004	Maaike Wegman	NL020604	1261

24737 7590 11/15/2011
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
PHONGSVIRAJATI, POONSIN

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):

vera.kublanov@philips.com
debbie.henn@philips.com
marianne.fox@philips.com

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NOV 1 4 2011

Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of: Maaike Wegman	:	**DECISION ON PETITION**
Application No. 10/518,837	:	**TO WITHDRAW FINALITY**
Filed: December 21, 2004	:	**OF OFFICE ACTION**
Attorney Docket No. NL020604	:	**UNDER 37 CFR 1.181**
For: MEDICAL CARE EXPERIENCE	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed on June 8, 2009 to withdraw the finality of the Office action dated April 15, 2009.

The petition is **DISMISSED as Moot**.

Applicant alleges that the finality of the Office action dated April 15, 2009 was improper because the amendment of January 9, 2009 did not raise any new issues in claim 6 that would necessitate a new ground of rejection.

A review of the record shows that, in the non-final Office action dated October 10, 2008, the examiner rejected claims 1and 6 only on the basis of a 103(a) rejection, relying on Maeda et al. (US 5,966,310), in view of Bodor et al. (US 6,201,546).

Claim 6, as presented in the preliminary amendment of December 21, 2004, had depended from claim 1. The subsequent amendment of January 9, 2009 then rewrote claim 6 to simply incorporate the subject matter of claim 1 and appear in independent form.

A final rejection was then mailed on April 15, 2009 which rejected the amended claim 6 on the same 103 rejection, but added a new 101 ground of rejection for being directed to non-statutory subject matter, which was a new ground of rejection.

However, the finality of the April 15, 2009 Office action was later withdrawn by the examiner in a new Office action, dated October 21, 2009, responding to the arguments, petition, and further amendment filed together by applicant on June 8, 2009.

The subject petition was handled as a request for reconsideration and was granted in the Office action dated October 21, 2009.

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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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of
Chad Munro, et al.
Application No. 10/518,866
Filed: December 17, 2004
Attorney Docket No. 8932-1035-999

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 October 22, 2010.

The request is **NOT APPROVED**.

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

Petitioner should also note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100803

DATE : August 4, 2010

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 7718160

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:

SPE: /Michael G. Hartley/ **Art Unit** 1618

OK TO ENTER: /MH/

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TEXAS 78701-2978
WWW.FULBRIGHT.COM

MKRAWZSENEK@FULBRIGHT.COM
DIRECT DIAL: (512) 536-3020

TELEPHONE: (512) 474-5201
FACSIMILE: (512) 536-4598

July 9, 2010

Commissioner for Patents
Attention: Certificates of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being electronically filed with the United States Patent and Trademark Office via EFS-Web on the date below:

July 9, 2010
Date

Michael R. Krawzsenek

RE: *Request for Certificate of Correction*
Patent No. 7,718,160 Dated: May 18, 2010
Application No. 10/518,872 Confirmation No.: 2593
Entitled: "RADIOLABELED COMPOUNDS AND LIPOSOMES AND THEIR METHOD OF MAKING AND USING SAME" – Ande BAO et al.
Our Ref.: UTSK:417US

Commissioner:

Attached is form PTO-1050. Errors of a minor nature are thereon corrected. The error in claim 7 is due to applicant. The error in claim 12 is due to Patent Office oversight. A Certificate of Correction is requested under 35 U.S.C. § 255.

The required fee set forth in 37 C.F.R. § 1.20(a) is included. If the fee is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, or should an overpayment be included, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/UTSK:417US.

Very truly yours,

Michael R. Krawzsenek

MRK/jst
Attachment

85686347.1

PRINTER'S TRIM LINE

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,718,160
DATED	:	May 18, 2010
INVENTOR(S)	:	Ande BAO et al.

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

In claim 7, column 27, line 3, delete "radiolabled" and insert --radiolabeled-- therefor.

In claim 12, column 27, line 16, delete "phosphatidyicholine" and insert --phosphatidylcholine-- therefor.

MAILING ADDRESS OF SENDER:
Michael R. Krawzsenek
FULBRIGHT & JAWORSKI L.L.P.
600 Congress Ave., Suite 2400
Austin, Texas 78701

PATENT NO. 7,718,160
No. of add'l. copies
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JUL 15 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,871,287	:	
Hoffman et al.	:	DECISION ON
Issue Date: January 18, 2011	:	REQUEST FOR
Application No. 10/518,907	:	RECONSIDERATION OF
Filed: October 21, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 08215-580US1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed March 18, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred and thirty-two (732) days to eight hundred and twenty-five (825) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

BACKGROUND

On January 18, 2011, the above-identified application matured into US Patent No. 7,871,287 with a patent term adjustment of 732 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 has indicated that this patent is not subject to a terminal disclaimer.[1]

[1] Petition, page 3.

Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 93 days.

The period of adjustment of 819 days of examination delay is not in dispute.

The period of reduction of 87 days of Applicant delay is not in dispute.

The 0-day period of overlap between the examination delay and the B-delay is not in dispute.

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 C.F.R. § 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

The sole item that is in dispute is the effect of the RCE-cutoff on B-delay: at issue is the period not included in the B-delay for "any time consumed by continued examination of the application requested by the applicant under section 132(b)." See U.S.C. 154(b)(1)(B)(i). **The Office maintains that the entire 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.** As such, there is no B-delay, due to the fact that the over three-year period begins on December 26, 2007,[2] which is subsequent to the filing of the first RCE on February 22, 2007.

Patentee argues that the 93-day period between the mailing of the notice of allowance on October 18, 2010 and the issuance of the patent on January 18, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued examination of the application."[3] As such, Patentee argues that the over three-year period begins October 18, 2010 with the mailing of the notice of allowance, and ends on January 18, 2011 with the issuance of the patent.

Patentee's argument has been considered, but not found persuasive. 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

[2] On the second page of this petition, Patentee has erroneously indicated that the over-three year period commences on December 28, 2007, however this appears to be a typographical error. This patent issued from an application that was a national stage entry, and the priority date is June 25, 2002. As such, the commencement date is December 25, 2004, and the over three-year period commences on December 26, 2007.
[3] Petition, page 3.

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 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 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. 56365, 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"[4] 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

[4] Petition, page 2.

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, No. 07-1492, 580 F.Supp.2d 138 (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)[5]. 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 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

[5] 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.

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[6] 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

[6] 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.

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. 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).

Accordingly, at issuance, the Office properly entered 457 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent. It follows that Patentee is entitled to a patent term adjustment of 732 days:

	819 days of examination delay
+	0 days attributable to the Office taking in excess of 3 years to issue the patent
–	0 days of overlap
–	87 days of applicant delay.

CONCLUSION

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not 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.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile.[9] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[11]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

[7] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[8] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[9] (571) 273-8300: please note this is a central facsimile number.
[10] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
[11] 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.

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)
7202448	2007-04-10	10518964	2004-12-20	DEG-FIRING

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	/David A. Zdurne/	Date (YYYY-MM-DD)	2011-08-01
Name	David A. Zdurne	Registration Number	58630

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. 7202448
Issue Date: April 10,2007
Application No. 10518964
Filed: December 20,2004
Attorney Docket No. DEG-FIRING

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

This is a decision on the electronic petition, filed August 1,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 1,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Kendall	:	
Application No. 10/518,998	:	DECISION
Filed/Deposited: 21 December, 2004	:	
Attorney Docket No. PU020316	:	

This is a decision on the petition filed on 16 July, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 28 December, 2009, with reply due absent extension of time on or before 28 March, 2010.

The application went abandoned by operation of law after midnight 28 March, 2010.

The Office mailed a Notice of Abandonment on 7 July, 2010.

On 16 July, 2010, Petitioner/Counsel filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of an amendment, and made the statement of unintentional delay.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

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

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 2424 for further processing in due course.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
APR 28 2011
OFFICE OF PETITIONS

PETER A. HAAS, ESQUIRE
1929 SW 13TH AVENUE
PORTLAND, OR 97201

In re Application of	:	
Ognjen Amidzic	:	
Application No.: 10/519,299	:	ON PETITION
Filed: February 11, 2005	:	
Attorney Docket No.: None	:	

This is a decision in response to the petition, filed March 10, 2011, requesting withdrawal of the holding of abandonment in the above-identified application under the provisions of 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice), mailed May 27, 2010. The Notice set a period for reply of one (1) month from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 28, 2010.

A review of the application file reveals no irregularities in the mailing of the Notice of January 8, 2010. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

> 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.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3736 technical support staff for **re-mailing** the Notice of Non-Compliant Amendment of July 6, 2010. The period for reply will run from the mailing date of the Notice.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,357,929
Issued: April 15, 2008
Application No. 10/519,330
Filed: April 25, 2005
Attorney Docket No: **50304/056001**

ON PETITION

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed October 11, 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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Alexandria, VA 22313-1450
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Paper No.

MAILED

SEP 27 2010

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Patent No. 7,630,817	:	DECISION ON REQUEST
Lock et al.	:	FOR
Issue Date: December 8, 2009	:	RECONSIDERATION OF
Application No. 10/519,369	:	PATENT TERM ADJUSTMENT
Filed: September 8, 2005	:	and
Atty Docket No. 10191/4075	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 21, 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 four hundred and twenty-six (426) 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 four hundred and five (405) days is **GRANTED to the extent indicated herein.**

On December 8, 2009, Application No. 10/519,369 matured into U.S. Patent No. 7,630,817, with a patent term adjustment of 416 days. On February 11, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION," indicating that the patent term adjustment had been determined to be 406 days.

The Office notes that the decision of April 21, 2010 was issued in error as it accorded Patentee one more day of patent term

adjustment than was warranted. The present decision supersedes the decision mailed on April 21, 2010.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

The Office agrees that there was zero examination delay, 281 days of applicant delay, and the 11 days of the over three year period consumed by appellate review, beginning on October 27, 2008 and ending on November 6, 2008, are not included in the B delay.

It is noted that the 371 acceptance letter (M903) mailed on January 10, 2006 indicates that the priority date is July 11, 2002. The 30-month anniversary of this date is January 11, 2005. Therefore, the national stage commencement date is January 11, 2005, and not December 21, 2004, as set forth in paragraph 4(i) on the second page of this petition.

As such, the patent term adjustment is increased by 405 (0 days of examination delay plus 686[2] "B-delay" (697 after-three-years minus the aforementioned excluded 11 days minus 0 overlap) minus 281 days of Applicant delay) days, not 426 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or Patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

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[1] Petition, page 2, paragraph 5.
[2] Patentee calculates the B-delay to comprise 707 (718 - the excluded period of 11 days).
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300 - please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred and five (405) 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 : 7,630,817 B2

DATED : **December 8, 2009** **DRAFT**

INVENTOR(S) : Lock 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 406 days

Delete the phrase "by 406 days" and insert – by 405 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Application of Kyl L. Smith Application No. 10/519,515 Filed: December 7, 2004 Attorney Docket No. 73866.8001.US00	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 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, June 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 September 25, 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 $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received July 29, 2010.

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 06/14/11

Patent No. : **7,362,430 B2**
Ser. No. : **10/519,529**
Inventor(s) : **Nguyen , et al.**
Issued : **April 22, 2008**
Title : Raman spectrometry apparatus
Docket No. : **HJYS 0105 PUS**

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 mater, 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: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

LMN

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1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

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OFFICE OF PETITIONS

In re Patent No. 7,362,430 :
Issue Date: 04/22/2008 :
Application No. 10/519,529 : ON PETITION
Filed: 06/06/2005 :
Attorney Docket No. HJYS 0105 PUS :

This is a decision on the petition under 37 CFR 3.81(b) filed July 11, 2011.

Patentees request correction of the front page of the Letters Patent to include the correct assignee data via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form and paid the requisite fees. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee data is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. 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 as to the assignment information.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JAN 3 1 2011

PCT LEGAL ADMINISTRATION

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

In re Application of: LI, Hui, et al.
U.S. Application No.: 10/519,574
PCT No.: PCT/EP2003/006558
International Filing Date: 21 June 2003
Priority Date: 04 July 2002
Attorney's Docket No.: PD020062
For: METHOD AND DEVICE FOR LINKING MULTIMEDIA DATA

DECISION ON PETITION

This decision is issued in response to the "Petition Under 37 C.F.R. 1.181(a) To Withdraw Holding Of Abandonment" filed 14 November 2005. No petition fee is required.

BACKGROUND

On 21 June 2003, applicants filed international application PCT/EP2003/006558. The international application claimed a priority date of 04 July 2002, and it designated the United States. On 15 January 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 04 January 2005.

On 29 December 2004, applicants filed a Transmittal Letter (Form PTO-1390) requesting entry into the national stage in the United States, accompanied by additional application materials. The Form PTO-1390 contained the express authorization for the USPTO to charge Deposit Account No. 07-0832 $1,040 in fees, itemized as follows: basic national fee ($300), examination fee ($200), search fee ($500), and assignment recordation fee ($40). The Form PTO 1390 also contained the general authorization to charge the Deposit Account for any additional fees required.

On 02 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the application was abandoned based on applicants' failure to pay the full basic national fee prior to the expiration of thirty months from the priority date.

On 14 November 2005, applicants filed the "Petition Under 37 C.F.R. 1.181(a) To Withdraw Holding Of Abandonment" considered herein. The petition asserts that the proper authorization to charge Deposit Account 07-0832 for all required fees, including the basic

national fee, was timely filed prior to the expiration of the thirty-month deadline and that the holding of abandonment should therefore be withdrawn.

DISCUSSION

A review of the present application file confirms that applicants' 29 December 2004 submission included the express authorization for the USPTO to charge Deposit Account No. 07-0832 for the required basic national fee, as well as for any additional fees required. This authorization was filed in the USPTO prior to the expiration of thirty months from the priority date, and the file does not include any indication that any attempt by the USPTO to charge the Deposit Account the required fees was denied for lack of sufficient funds.

In view of the above, the authorization to charge Deposit Account No. 07-0832 for the required basic national fee filed on 29 December 2004 is accepted as payment of the basic national fee prior to the expiration of thirty month from the priority date. The holding of abandonment, based as it was on applicants' purported failure to pay the basic national fee prior to the expiration of thirty months from the priority date, is appropriately withdrawn, as requested in the present petition.

CONCLUSION

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 02 November 2005 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT operations for further processing in accordance with this decision.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

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APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,548,857	:	
Issue Date: June 16, 2009	:	
Application No. 10/519,653	:	ON PETITION
Filed: August 26, 2005	:	
Attorney Docket No.	:	
0745/73621/NHZ	:	

This is in response to the COMMUNICATION IN RESPONSE TO DENIAL OF REQUEST FOR A CERTIFICATE OF CORRECTION filed August 27, 2009, 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. Receipt of the status inquiry filed December 9, 2010 is acknowledged. These communications were recently forwarded to the undersigned for consideration.

The request is **GRANTED**.

By decision mailed July 20, 2009, a prior REQUEST FOR A CERTIFICATE OF CORRECTION was dismissed. The request included a Request for Certification of Correction Under 37 CFR 1.323 and the fee set forth in 37 CFR 1.20(a) for issuance of a certificate of correction and an authorization to charge any other required fees.

On August 27, 2009, petitioner submitted their request to the Office of Petitions for decision. A review of the record reveals that "Mineabea Co., Ltd.," was named as the assignee on the form PTOL-85B. Petitioner requests that the above-identified patent be corrected to name the assignee as "T-Mobile Deutschland GMBH (Germany)" and requests that a Certificate of

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Correction be issued identifying this assignee. On June 29, 2009, Petitioner submitted a "Certificate of Correction" for this purpose.

Both petitioner's evidence and Office records show that the assignment of the above-identified application to "T-Mobile Deutschland GMBH (Germany)" was submitted for recording in the Office on August 26, 2005 before issuance of the patent (Reel/Frame 016940/0715) on June 16, 2009. This was also prior to payment of the Issue Fee on May 12, 2009.

Receipt of the required $100 certificate of correction fee received June 29, 2009 is acknowledged. Pursuant to the authorization to charge required fees, the required $130 processing fee is being charged to the Deposit Account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction. (It is noted that the Certificate of Correction provided by patentee on June 29, 2009 contains an error in the issue date stated. The issue date is June 16, 2009, not June 6, 2009).

Nancy Johnson
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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NOV 02 2011

OFFICE OF PETITIONS

Sandra L. Pontius
104 Hickory Street
Butler, PA 16001

In re Patent No. 7,240,048	:	
Issue Date: July 3, 2007	:	ON PETITION
Application No. 10/519,695	:	
Filed: December 27, 2004	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 12, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **GRANTED.**

The patent expired on July 4, 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 is reinstated as of the mailing date of this decision.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JAN 19 2012

OFFICE OF PETITIONS

In re Application
Kristin Wannerberger et al.
Application No. 10/519,715
Filed: August 9, 2005
Attorney Docket No. 052209-0132

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed January 10, 2012. Applicant requests that the determination of patent term adjustment be corrected from 7 to 712 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

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

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On October 12, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is seven (7) days.

The Office initially determined a patent term adjustment of seven (7) days based on an adjustment for PTO delay of two hundred eighty-four (284) days, pursuant to 35 U.S.C. 154(b)(1)(A)(I) and 37 CFR §§1.702(a)(1) reduced by two hundred seventy-seven (277) days of applicant delay pursuant to 37 C.F.R. §1.704(b).

Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant asserts that the 371 completion date is incorrectly listed on PAIR as May 13, 2006, instead of August 9, 2005, a difference of 277 days and the period should be calculated as 392 days.

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

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that the requirements of 35 U.S.C. 371 were fulfilled on August 9, 2005 and not on September 10, 2003 as indicated in the PTA Calculation and thus the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on November 5, 2007, is 392 days. This period is counted beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, October 9, 2006, and ending on the date of the mailing of the first action under 35 U.S.C. 132, November 5, 2007.

Given the reduction of 561 days for PTO delay minus 277 days of applicant delay, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred eighty-four (284) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are 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 specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
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*: 10519715 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10519715

Application Filing Date	08/09/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	284
A Delays	284	PTO Manual Adjustment	277
B Delays	0	Applicant Delay (APPL)	277
C Delays	0	Total PTA (days)	284

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
120	01/17/2012		P028	Adjustment of PTA Calculation by PTO	392		0
119	01/17/2012		P028	Adjustment of PTA Calculation by PTO		115	0
118	01/17/2012		P028	Adjustment of PTA Calculation by PTO	392		0
117	01/17/2012		P028	Adjustment of PTA Calculation by PTO		115	0
116	01/17/2012		P028	Adjustment of PTA Calculation by PTO		392	0
115	01/17/2012		P028	Adjustment of PTA Calculation by PTO	115		0
105	10/12/2011		MN/=.	Mail Notice of Allowance			0
104	10/11/2011		OAR	Office Action Review			0
103	10/11/2011		OAR	Office Action Review			0
102	10/03/2011		OAR	Office Action Review			0
101	10/03/2011		OAR	Office Action Review			0
100	10/03/2011		IREV	Issue Revision Completed			0
99	09/29/2011		OAR	Office Action Review			0
98	09/29/2011		OAR	Office Action Review			0
97	09/29/2011		N/=.	Notice of Allowance Data Verification Completed			0
96	09/29/2011		DOCK	Case Docketed to Examiner in GAU			0
95	09/29/2011		DVER	Document Verification			0
94	09/28/2011		EX.R	Reasons for Allowance			0
93	09/28/2011		CNTA	Allowability Notice			0
90	09/23/2011		FWDX	Date Forwarded to Examiner			0
91	09/14/2011		IDSC	Information Disclosure Statement considered			0
89	09/14/2011	08/23/2011	A...	Response after Non-Final Action		22	79
88	09/14/2011		XT/G	Request for Extension of Time - Granted			0
87	09/14/2011		RCAP	Reference capture on IDS			0
86	09/14/2011		M844	Information Disclosure Statement (IDS) Filed			0
85	09/14/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
84	09/08/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
83	09/07/2011		OAR	Office Action Review			0
82	09/07/2011		OAR	Office Action Review			0
81	09/07/2011		EXIA	Interview Summary- Applicant Initiated			0
80	09/07/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
79	05/23/2011	03/09/2011	MCTNF	Mail Non-Final Rejection	75		72
78	05/23/2011		OAR	Office Action Review			0
77	05/19/2011		CTNF	Non-Final Rejection			0
74	11/18/2010		FWDX	Date Forwarded to Examiner			0
71	11/18/2010		ABN9	Disposal for a RCE / CPA / R129			0
76	11/09/2010		IDSC	Information Disclosure Statement considered			0
75	11/09/2010	11/09/2010	M844	Information Disclosure Statement (IDS) Filed			72
73	11/09/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
72	11/09/2010	09/10/2010	RCEX	Request for Continued Examination (RCE)			68
70	11/09/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
69	11/09/2010		BRCE	Workflow - Request for RCE - Begin			0
68	09/10/2010	06/11/2010	N/AP	Notice of Appeal Filed		91	58
67	09/10/2010		XT/G	Request for Extension of Time - Granted			0
66	08/30/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
65	08/27/2010		CTAV	Advisory Action (PTOL-303)			0
64	08/25/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
63	08/19/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
62	08/18/2010		CTAV	Advisory Action (PTOL-303)			0
61	08/12/2010		FWDX	Date Forwarded to Examiner			0
60	08/11/2010		A.NE	Amendment after Final Rejection			0
59	08/11/2010		XT/G	Request for Extension of Time - Granted			0
58	03/11/2010	03/06/2010	MCTFR	Mail Final Rejection (PTOL - 326)	5		50
57	03/01/2010		CTFR	Final Rejection			0
53	11/19/2009		FWDX	Date Forwarded to Examiner			0
51	11/19/2009		FWDX	Date Forwarded to Examiner			0

49	11/19/2009		ABN9	Disposal for a RCE / CPA / R129			0
56	11/06/2009		IDSC	Information Disclosure Statement considered			0
55	11/06/2009		RCAP	Reference capture on IDS			0
54	11/06/2009		M844	Information Disclosure Statement (IDS) Filed			0
52	11/06/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
50	11/06/2009	08/07/2009	RCEX	Request for Continued Examination (RCE)		91	45
48	11/06/2009		XT/G	Request for Extension of Time - Granted			0
47	11/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
46	11/06/2009		BRCE	Workflow - Request for RCE - Begin			0
45	05/07/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
44	05/06/2009		CTFR	Final Rejection			0
37	02/25/2009		FWDX	Date Forwarded to Examiner			0
43	02/13/2009		IDSC	Information Disclosure Statement considered			0
40	02/13/2009	02/03/2009	M844	Information Disclosure Statement (IDS) Filed		10	36
34	02/13/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
42	02/03/2009		IDSC	Information Disclosure Statement considered			0
39	02/03/2009		RCAP	Reference capture on IDS			0
38	02/03/2009		M844	Information Disclosure Statement (IDS) Filed			0
36	02/03/2009	12/03/2008	A...	Response after Non-Final Action		62	32
35	02/03/2009		XT/G	Request for Extension of Time - Granted			0
33	02/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
32	09/03/2008	06/06/2008	MCTNF	Mail Non-Final Rejection	89		23
31	09/02/2008		CTNF	Non-Final Rejection			0
24	03/11/2008		FWDX	Date Forwarded to Examiner			0
23	02/06/2008	02/05/2008	ELC.	Response to Election / Restriction Filed		1	20
22	02/06/2008		XT/G	Request for Extension of Time - Granted			0
21	11/27/2007		DOCK	Case Docketed to Examiner in GAU			0
20	11/05/2007	07/13/2007	MCTRS	Mail Restriction Requirement	115		10
19	11/02/2007		CTRS	Restriction/Election Requirement			0
18	10/30/2007		DOCK	Case Docketed to Examiner in GAU			0
17	05/24/2007		PG-ISSUE	PG-Pub Issue Notification			0
16	03/19/2007		DOCK	Case Docketed to Examiner in GAU			0
15	03/08/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
8	03/02/2007		M903	Notice of DO/EO Acceptance Mailed			0
9	03/01/2007		OIPE	Application Dispatched from OIPE			0
7	07/12/2006		L194	Cleared by OIPE CSR			0
6	07/12/2006		L194	Cleared by OIPE CSR			0
5	07/12/2006		L194	Cleared by OIPE CSR			0
10	05/13/2006		371COMP	371 Completion Date			0
0.5	11/12/2004		NEFILE	International Filing date			0

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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)
7,258,933	2007-08-21	10/519,794	2004-12-22	30113-100616

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	/dmg/	Date (YYYY-MM-DD)	2011-10-07
Name	Daniel M. Gurfinkel	Registration Number	34177

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. 7258933
Issue Date: August 21,2007
Application No. 10519794
Filed: December 22,2004
Attorney Docket No. 09852/020258-US0

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

This is a decision on the electronic petition, filed October 7,2011 ,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 October 7,2011 . 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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Date: 05/02/11

Patent No. : **7,595,048 B2**
Ser. No. : **10/519,925**
Inventor(s) : **Honjo , et al.**
Issued : **September 29, 2009**
Title : Method for treatment of cancer by inhibiting the immunosuppressive signal induced by PD-1
Docket No. : **Q85588**

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 mater, 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: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

LMN

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MAILED

JUN 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,595,048
Issue Date: September 29, 2009
Application No. 10/519,925
Filed: January 3, 2005
Patentee(s): Tasuku Honjo, et. al.

ON PETITION

This is a decision on the request under 37 CFR 3.81(b) filed May 26, 2011, to correct the assignee data and to add the name of an additional assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **DISMISSED** for the reason stated below.

Petitioner states that he inadvertently failed to include the correct assignee name on the PTOL-85(b).

In the above application, it would not be appropriate to issue the requested Certificate of Correction. In this regard, an inventor is presumed to be the owner of the patent, unless there has been an assignment. See 37 CFR 3.73(a). Assignment records for the above patent show that Ono Pharmaceutical Co., Ltd. holds an interest in the above patent along with inventor Tasuku Honjo who retains interest by way of being named as an inventor, who has not conveyed his rights in this patent to any other assignee. Thus, Ono Pharmaceutical Co., Ltd. is properly regarded as an assignee and Mr. Honjo is properly regarded as an "owner" as set forth in 37 CFR 3.73(a).

While the statute (35 USC § 152) and regulation (37 CFR 3.81(b)) both provide for the issuance of a patent to the "assignee," there is no like provision in the statutes and regulations for issuance of a patent to the "owner." Since Mr. Honjo is not regarded as an "assignee" within the meaning of the statute and regulation, there is no apparent error that is, or can be, remedied by the proffered Certificate of Correction.

Nevertheless, petitioner may have relief. In this regard, 37 CFR 3.81(c) speaks to the situation where the assignee only has an undivided part interest, in that the patent may issue jointly to the assignee and the inventor(s). Accordingly, petitioner may wish to present a new, modified Certificate of Correction, which merely sets forth that Ono Pharmaceutical Co., Ltd. has a "part interest." Such would clarify that Ono Pharmaceutical Co., Ltd. is not the assignee of the entire interest in the above-identified patent.

Further, a review of the USPTO Office database assignment records reflects that an assignment to the Ono Pharmaceutical Co., Ltd. has been recorded. Therefore, upon submission of the modified Certificate of Correction, it would be appropriate for the Office to issue a Certificate of Correction to correct the front page of the Letters Patent to reflect that Ono Pharmaceutical Co., Ltd. had part interest at the time of issuance of the application into a patent.

This patent file is being referred to Files Repository.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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WASHINGTON, DC 20037-3213

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,595,048	:	
Issue Date: September 29, 2009	:	
Application No. 10/519,925	:	ON PETITION
Filed: January 3, 2005	:	
Patentee(s): Tasuku Honjo, et. al.	:	

This is a decision on the renewed request under 37 CFR 3.81(b) filed July 22, 2011, to correct the assignee data and to add the name of an additional assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the present request complies with the requirements of 37 CFR 3.81(b), the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Andrea Smith
Petitions Examiner
Office of Petitions

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

APR 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Masaya Tanaka	:	
Application No. 10/520,100	:	ON PETITION
Filed: January 4, 2005	:	
Attorney Docket No. 0020-5551PUS1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 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 September 15, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 16, 2010. The Notice of Abandonment was mailed March 23, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; 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. 13/046,200.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on March 21, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of:
Julie Kay Bush et al.
Application No. 10/520,360
Filed: January 5, 2005
Attorney Docket No. X-14884

PETITION DECISION

This is a decision on the petition filed July 2, 2010 under 37 CFR 1.181 and the petition filed July 2, 2010 under 37 CFR 1.183.

The petitions are **DISMISSED AS BEING MOOT.**

The petition under 37 CFR 1.181 requests reconsideration of the examiner's refusal to enter the Information Disclosure Statement (IDS) filed March 2, 2010. The petition under 37 CFR 1.183 appears to have been filed as an alternative to the petition under § 1.181 and requests suspension of 37 CFR 1.704(d) should the petition under § 1.181 not be granted.

The file record shows that a Request for Continued Examination (RCE) was filed on August 4, 2010 which included the IDS in question as the submission.

Therefore the petitions under § 1.181 and § 1.183 are no longer relevant and are dismissed as being moot.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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INDIANAPOLIS IN 46206-6288

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DEC 06 2011

OFFICE OF PETITIONS

In re Application :
Bush, et al. :
Application No. 10/520,360 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: January 5, 2005 :
Dkt. No.: X-14884 :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed October 14, 2011.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 613 days, not 449 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed September 28, 2011. Applicants contest the reduction of 91 days accorded in connection with the reply filed July 11, 2007. Applicants further assert that the application is entitled to an additional adjustment of 73 days in connection with the examiner's answer mailed *April 5, 2009.*

The arguments presented have been carefully reviewed and found in part convincing. A thorough review of the record reveals that at the time of allowance, the application was entitled to an overall patent term adjustment of 463 days.

Applicants' contest the reduction of 91 days accorded in connection with the reply filed July 11, 2007. Applicants argue that a proper reply to the final Office action mailed January 11, 2007 was timely filed April 11, 2007. The final Office action indicated, *inter alia*, that claims 2 and 15 were allowable. Applicants argue that the Advisory Action mailed May 3, 2007 was improper in that it rejected claims 2 and 15. Applicants assert that the reply filed July 11, 2007 in response to the Advisory Action should not warrant a reduction inasmuch as the examiner should have issued a new Office action rather than rejecting claims 2 and 15 by way of Advisory Action.

Applicants' arguments have been carefully considered, but are not found convincing. Petition may be taken to the Director 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 re-examination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court. See, 37 CFR 1.181(a). There is no indication in the record that applicants timely

submitted a petition to the Director with respect to the rejections set forth in the Advisory Action mailed May 3, 2007. Accordingly, the reply filed July 11, 2007 is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(b).

Applicants' appeal brief was filed September 22, 2008. A review of the record reveals that the examiner's answer was mailed February 5, 2009, not April 5, 2009. Thus, in accordance with 37 CFR 1.702(a)(3), the application is entitled to an adjustment of 14 days. The adjustment commenced January 23, 2009, the day after the date that is four months after the date that the appeal brief was filed, and ended February 5, 2009, the date that the examiner's answer was mailed. See, 37 CFR 1.703(a)(4).

In view thereof, at the time of allowance, the application was entitled to an overall adjustment of 463 days (672 days under 37 CFR 1.702 less 209 days under 37 CFR 1.704).

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure

Patent Term Adjustments

Best Available Copy

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

Application Number*: 10520360 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10520360

Application Filing Date	01/05/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	658
A Delays	109	PTO Manual Adjustment	14
B Delays	0	Applicant Delay (APPL)	209
C Delays	549	Total PTA (days)	463

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
172	12/04/2011		P028	Adjustment of PTA Calculation by PTO	14		0
157	09/28/2011	06/20/2011	MN/=.	Mail Notice of Allowance			146
156	09/23/2011		OAR	Office Action Review			0
155	09/23/2011		IREV	Issue Revision Completed			0
154	09/23/2011		DVER	Document Verification			0
153	09/23/2011		N/=.	Notice of Allowance Data Verification Completed			0
152	09/23/2011		DOCK	Case Docketed to Examiner in GAU			0
151	09/21/2011		CNTA	Allowability Notice			0
149	08/01/2011		FWDX	Date Forwarded to Examiner			0
147	07/29/2011		APBR	Appeal Brief Review Complete			0
148	07/15/2011		AP.B	Appeal Brief Filed			0
146	06/20/2011		N/AP	Notice of Appeal Filed			0
145	06/08/2011		EML_NTR	Email Notification			0
144	06/08/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
143	06/06/2011		OAR	Office Action Review			0
142	06/05/2011		CTAV	Advisory Action (PTOL-303)			0
141	05/19/2011		EML_NTR	Email Notification			0
140	05/19/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
137	05/10/2011		FWDX	Date Forwarded to Examiner			0
136	05/09/2011		A.NE	Amendment after Final Rejection			0
139	05/05/2011		OAR	Office Action Review			0
138	05/05/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
135	04/28/2011		ELC_RVW	Electronic Review			0
134	04/28/2011		EML_NTF	Email Notification			0
133	04/28/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
132	04/25/2011		OAR	Office Action Review			0
131	04/24/2011		CTFR	Final Rejection			0
129	03/11/2011		EML_NTR	Email Notification			0
128	03/11/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
126	02/22/2011		LET.	Miscellaneous Incoming Letter			0
127	02/17/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
125	02/11/2011		FWDX	Date Forwarded to Examiner			0
124	02/09/2011	01/31/2011	SA..	Supplemental Response		9	122
123	02/07/2011		FWDX	Date Forwarded to Examiner			0
130	01/31/2011		IDSC	Information Disclosure Statement considered			0
122	01/31/2011		A...	Response after Non-Final Action			0
121	01/31/2011		EIDS.	Electronic Information Disclosure Statement			0
120	01/31/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
119	11/30/2010		ELC_RVW	Electronic Review			0
118	11/30/2010		EML_NTF	Email Notification			0
117	11/30/2010		MCTNF	Mail Non-Final Rejection			0
116	11/22/2010		CTNF	Non-Final Rejection			0
115	10/30/2010		EML_NTR	Email Notification			0
114	10/30/2010		EML_NTR	Email Notification			0
113	10/25/2010		MPTDI	Mail-Petition Decision - Dismissed			0
111	10/25/2010		MPTDI	Mail-Petition Decision - Dismissed			0
112	10/22/2010		PTDI	Petition Decision - Dismissed			0
110	10/22/2010		PTDI	Petition Decision - Dismissed			0
108	08/18/2010		DOCK	Case Docketed to Examiner in GAU			0
102	08/05/2010		ABN9	Disposal for a RCE / CPA / R129			0
107	08/04/2010		IDSC	Information Disclosure Statement considered			0
106	08/04/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
104	08/04/2010		EIDS.	Electronic Information Disclosure Statement			0
103	08/04/2010		RCEX	Request for Continued Examination (RCE)			0
101	08/04/2010		BRCE	Workflow - Request for RCE - Begin			0
100	07/30/2010		TCPB	Printer Rush- No mailing			0
98	07/09/2010		FIDC	Finished Initial Data Capture			0
96	07/08/2010		PUBTC	Pubs Case Remand to TC			0
109	07/02/2010		PET.	Petition Entered			0
99	07/02/2010		PET.	Petition Entered			0
95	07/02/2010		REAS	Response to Reasons for Allowance			0
94	05/11/2010		EML_NTR	Email Notification			0
92	05/11/2010		MM327	Mail Miscellaneous Communication to Applicant			0
91	05/07/2010		M327	Miscellaneous Communication to Applicant - No Action Count			0
90	05/04/2010		ELC_RVW	Electronic Review			0
89	05/04/2010		EML_NTF	Email Notification			0
88	05/04/2010		EML_NTR	Email Notification			0
87	05/04/2010		MEX.A	Mail Examiner's Amendment			0
86	05/04/2010		MN/=.	Mail Notice of Allowance			0
[illegible]	[illegible]		[illegible]	[illegible]			[illegible]

84	04/30/2010		DVER	Document Verification			0
83	04/30/2010		N/=.	Notice of Allowance Data Verification Completed			0
82	04/30/2010		EX.A	Examiner's Amendment Communication			0
80	04/30/2010		CNTA	Allowability Notice			0
81	04/15/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
79	03/02/2010		IDSC	Information Disclosure Statement considered			0
76	03/02/2010		EIDS.	Electronic Information Disclosure Statement			0
75	03/02/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
74	01/28/2010		ELC_RVW	Electronic Review			0
73	01/28/2010		EML_NTF	Email Notification			0
72	01/28/2010	07/29/2008	MAPDR	Mail BPAI Decision on Appeal - Reversed	549		57
71	01/26/2010		APDR	BPAI Decision - Examiner Reversed			0
70	05/27/2009		EML_NTR	Email Notification			0
69	05/27/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
68	05/22/2009		APAS	Assignment of Appeal Number			0
67	05/13/2009		APWD	Appeal Awaiting BPAI Docketing			0
66	05/07/2009		ARBP	Appeal ready for BPAI review			0
65	02/26/2009		PACC	Exam. Ans. Review Complete			0
64	02/05/2009		ELC_RVW	Electronic Review			0
63	02/05/2009		EML_NTF	Email Notification			0
62	02/05/2009		MAPEA	Mail Examiner's Answer			0
61	02/02/2009		APEA	Examiner's Answer to Appeal Brief			0
60	10/01/2008		APBR	Appeal Brief Review Complete			0
59	10/01/2008		FWDX	Date Forwarded to Examiner			0
58	09/22/2008		AP.B	Appeal Brief Filed			0
57	07/29/2008		N/AP	Notice of Appeal Filed			0
56	06/25/2008		EML_NTR	Email Notification			0
55	06/25/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
54	06/25/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
51	05/01/2008		ELC_RVW	Electronic Review			0
50	04/30/2008		EML_NTF	Email Notification			0
49	04/30/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
48	04/28/2008		CTFR	Final Rejection			0
46	02/24/2008		FWDX	Date Forwarded to Examiner			0
45	02/12/2008	11/16/2007	A...	Response after Non-Final Action		88	40
44	02/12/2008		XT/G	Request for Extension of Time - Granted			0
52	02/05/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
53	01/30/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
43	01/08/2008		DOCK	Case Docketed to Examiner in GAU			0
42	08/17/2007		ELC_RVW	Electronic Review			0
41	08/16/2007		EML_NTF	Email Notification			0
40	08/16/2007		MCTNF	Mail Non-Final Rejection			0
39	08/13/2007		CTNF	Non-Final Rejection			0
35	07/12/2007		FWDX	Date Forwarded to Examiner			0
34	07/11/2007	04/11/2007	A.NE	Amendment after Final Rejection		91	24
33	07/11/2007		XT/G	Request for Extension of Time - Granted			0
32	05/05/2007		ELC_RVW	Electronic Review			0
31	05/04/2007		EML_NTF	Email Notification			0
30	05/03/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
29	04/30/2007		CTAV	Advisory Action (PTOL-303)			0
28	04/13/2007		FWDX	Date Forwarded to Examiner			0
27	04/11/2007		A.NE	Amendment after Final Rejection			0
26	01/18/2007		ELC_RVW	Electronic Review			0
25	01/16/2007		EML_NTF	Email Notification			0
24	01/11/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
23	01/11/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
21	01/08/2007		CTFR	Final Rejection			0
22	01/05/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
20	10/26/2006		FWDX	Date Forwarded to Examiner			0
19	10/20/2006	09/29/2006	A...	Response after Non-Final Action		21	17
18	10/20/2006		XT/G	Request for Extension of Time - Granted			0
17	06/29/2006	03/12/2006	MCTNF	Mail Non-Final Rejection	109		5
16	06/26/2006		CTNF	Non-Final Rejection			0
14	12/02/2005		A.PE	Preliminary Amendment			0
11	11/04/2005		MNPRL	Mail Non-Compliant Preliminary Amendment			0
13	11/03/2005		DOCK	Case Docketed to Examiner in GAU			0
12	11/03/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
10	11/03/2005		NPRL	Non-Compliant Preliminary Amendment			0
6	09/21/2005		L194	Cleared by OIPE CSR			0
4	09/16/2005		OIPE	Application Dispatched from OIPE			0
3	09/16/2005		M903	Notice of DO/EO Acceptance Mailed			0
2	08/25/2005		CLSPCT	PCT Classification			0
5	01/12/2005		371COMP	371 Completion Date			0
0.5	07/08/2003		NEFILE	International Filing date			0

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SYNGENTA CROP PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO NC 27409

MAILED
MAY 2 7 2011
OFFICE OF PETITIONS

In re Application of	:	
Threewitt et al.	:	
Application No. 10/520,367	:	DECISION ON PETITION
Filed: January 6, 2005	:	
Attorney Docket No. PPD 50705	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office Communication on or before March 24, 2011, as required by the letter mailed February 24, 2011. The letter set a shortened statutory period for reply of 1 month(s). Accordingly, the date of abandonment of this application is March 25, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) an Application Data Sheet (ADS); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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ALEXANDRIA VA 22320-4850

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JUN 01 2011
OFFICE OF PETITIONS

In re Patent No: 7,274,238	:	
Issued: September 25, 2007	:	
Application No. 10/520,429	:	NOTICE
Filed: July 13, 2005	:	
Attorney Docket No. 122358	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed April 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 **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 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: GILLIAN GASCOIGNE
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES CA 90036-5679

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JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,613,454 :
Issue Date: November 3, 2009 :
Application No. 10/520,482 : DECISION ON PETITION
Filed: December 23, 2005 :
Attorney Docket No. **B-5633PCT** :
622410-7

This is a decision on the petition November 22, 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.

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 Ollie Person or Kimberly Terrell at the Office of Data Management (ODM) 571-272-4200.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Ollie Person Office at FAX No. 571- 270-9764
Kimberly Terrell at FAX No. 571-270-9958

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,491	04/07/2005	Martin Hellsten	PST6366P1US/2187	9838

27624 7590 09/16/2010
AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN, NY 10591

EXAMINER
METZMAIER, DANIEL S

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
09/16/2010	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):

IPANI.PATENT@AKZONOBEL.COM

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SEP 16 2010

Mailed :	:	
In re Application of	:	DECISION
Hellsten et al.	:	ON
Serial No. 10/520,491	:	PETITION
Filed: April 7, 2005	:	
For: DRAG-REDUCING AGENT FOR USE IN	:	
INJECTION WATER AT OIL RECOVERY	:	

This is a decision on applicant's PETITION UNDER 37 CFR 1.181, filed August 23, 2010.

A final rejection was mailed on January 8, 2010, which was followed by an after-final amendment submitted on July 7, 2010. The examiner denied entry of the amendment in an advisory action dated July 21, 2010, prompting the instant petition to be timely filed on August 23, 2010. The petition was accompanied by a corrected amendment and is before the Director of Technology Center 1700 for decision.

The petition is **GRANTED** for the reasons below.

DECISION

As a preliminary matter, it is noted that the July 7, 2010 amendment was held non-compliant by the examiner under 37 CFR 1.121 as including incorrect status identifiers. Applicant has apparently conceded this point by filing a corrected version of the claims on August 23, 2010 along with the instant petition. The August 23, 2010 version differs only by correcting the status identifiers, and was likewise denied entry by the examiner for the same reasons (sans non-compliance under 1.121) as the July 7, 2010 amendment.

Accordingly, to prevent further delay, this petition will be decided with respect to the amendment filed August 23, 2010.

Treatment of after-final amendments is discussed in MPEP 714.13, relevant portions of which state:

> It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.

> Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection.
>
> The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.
>
> If the proposed amendment presents new issues requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issues that would require further consideration and/or search.

In the instant application, the examiner denied entry of the August 23rd amendment because:

> 1) "Claim 8 presented two concentration limitations sequentially that appear inconsistent and indefinite."
>
> 2) "The limitations of claim 8 have not herein before been presented in claim 8."
>
> 3) "Applicants do not provide a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented."

Considering these in turn, with respect to the sequential concentration limitations of claim 8, it is not entirely clear what the examiner is referencing. It appears the examiner is concerned with the weight percentages being followed by parts per million. A similar format was followed in claim 11, as it stood on September 10, 2009, and the examiner raised no objection to it at the time of the January 8, 2010 final rejection. Therefore, there does not appear to be any new issue to consider with regards to the definiteness of claim 8 which would justify denying entry to the August 23rd amendment.

Next, while the limitations added to claim 8 were not previously in that particular claim, they were present in claims 17 and 18, which depended from claim 8. The examiner presumably considered them in the course of examining these dependent claims. Thus there inclusion in claim 8 does not appear to raise any new issues. On the contrary, by incorporating the dependent claims into the independent claim, the issues for appear are reduced and simplified.

Finally with respect to the last reason given by the examiner, as noted above the proposed amendment would simplify the issues on appeal in this particular case without raising any new issues. As stated in the MPEP above, in such a situation a separate explanation of 'good and sufficient' reasons is generally not required.

As the examiner has not set forth any proper reasons for denying entry of the August 23, 2010 amendment, applicant's petition for entry thereof is **granted**.

10/520,491

The application will be forwarded to the examiner for further consideration of the amendment consistent with this decision.

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

AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN NY 10591

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CHICAGO IL 60606

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In re Application of	:	
STEVENS	:	
Application No. 10/520,601	:	ON PETITION
Filed: August 2, 2005	:	
Attorney Docket No. 20177/30782003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 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, April 4, 2011, 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 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1860; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1270 extension of time fee submitted with the petition on October 10, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-2455.

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. 13/270,103, dated October 10, 2011.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,449,475	:	
Hossain et al.	:	
Issue Date: November 11, 2008	:	DECISION ON APPLICATION
Application No. 10/520,699	:	FOR
Filed: January 7, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 06275-427US1/	:	
100684-1P US	:	

This is in response to the "RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed July 30, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred thirty-one (131) days to one hundred seventy-nine (179) days. The present reconsideration petition was filed within two months of the June 8, 2009 decision on petition under 37 CFR 1.705(d) and is therefore, timely filed.

The request for reconsideration is **granted to the extent indicated herein.**

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay").

The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is July 8, 2002. Thirty months from that date is January 8, 2005, which is the beginning of the Three Year Delay period. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 9, 2008 and ends on February 24, 2008, the day before the RCE was filed, and is 47 days. See 35 U.S.C. 154(b)(1)(B)(i). There were no overlapping days of delay. As such, the patent term

adjustment is 178, not 179 days. The PTA formula is 307 days of A delay + 47 days of B delay - 176 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.

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 hundred seventy-eight (178)** 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 the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,449,475 B2

DATED : **November 11, 2008** **DRAFT**

INVENTOR(S) : Hossain 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 131 days

Delete the phrase "by 131 days" and insert – by 178 days--

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Joseph S Tripoli
Thomson Licensing Inc
PO Box 5312
Princeton NJ 08543-5312

In Re application of Casimir Johan Crawley Application No. 10/520,728 Filed: January 9, 2005 Attorney Docket No. PU020286	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed April 1, 2010 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that specified papers filed February 17, 2010 be expunged from the record. Petitioner states these papers were erroneously filed in the wrong application and do not pertain to the above identified patent application. 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. The information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

The application is being returned to Technology Center Art Unit 2618.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

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OFFICE OF PETITIONS

In re Application of
Erik BERGLUND, et al
Application No. 10/520,808
Filed: July 14, 2005
Attorney Docket No. P19238-US1

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2008, 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 February 21, 2008. 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 May 22, 2008.

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) a proper 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 2453 for further processing in the normal course of business.

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

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

In re Patent No. of Sondbo et al.	:	DECISION ON REQUEST
Patent No. 7,678,930	:	FOR RECONSIDERATION OF
Issue Date: March 16, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/520,897	:	and
Filed: July 25, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 10260.0007	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR VACATING DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed June 21, 2010. Patentees request that the patent term adjustment indicated in the patent be corrected from nine hundred twelve (912) days to eight hundred fifty-five (855) 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 to eight hundred fifty-five (855) days is **granted**.

On March 16, 2010, the above-identified application matured into U.S. Patent No. 7,678,930. The Patent issued with a revised Patent Term Adjustment of 912 days. On May 17, 2010, patentees filed a "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION." The Office mailed a "DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSMENT IN VIEW OF WYETH" on May 21, 2010 that dismissed applicants request for recalculation. However, patentees did not file a Request for Recalculation of Patent Term Adjustment in View of Wyeth. As such, the decision mailed May 21, 2010 was mailed in error and is vacated.

Patentees filed the present correspondence on June 21, 2010, once again requesting the Office address the May 17, 2010

correspondence for recalculation based on grounds other than Wyeth.

Based on patentees' calculations, the patent term adjustment should be 855 days. Patentees assert that the Office's calculation of patent term adjustment fails to consider that after a Request for Continued Examination (RCE) was filed on August 4, 2009, that applicants filed Information Disclosure Statements on August 18,2 009, August 21, 2009, and September 20, 2009.

The Office concurs with patentees. Specifically, a reduction of 57 days should have been entered based on 37 CFR 1.704(c)(8). After applicants filed a reply on August 4, 2009 to a final Office action, applicants submitted three supplemental replies or papers in the form of Information Disclosure Statement (IDSs) on August 18, 2009, August 21, 2009, and September 30, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDSs. Further, a review of the IDSs reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application.

All pursuant to 37 CFR 1.704(c)(8): The first period of reduction is 14 days, counting the number of days beginning on the day after the date the initial reply was filed, August 5, 2009, and ending on the date that the first IDS at issue was filed, August 18, 2009. The second period of reduction is 3 days, counting the number of days beginning on the day after the date the first IDS at issue was filed, August 19, 2009, and ending on the date that the second IDS at issue was filed, August 21, 2009. The third period of reduction is 40 days, counting the number of days beginning on the day after the date the second IDS at issue was filed, August 22, 2009, and ending

---

[1] Pursuant to 37 CFR § 1.704(d):

> 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.

on the date that the third IDS at issue was filed, September 30, 2009. Accordingly, a total reduction of 57 (14 + 3 + 40) days will be entered.

In light thereof, the correct patent term adjustment is eight hundred fifty-five (855) days, which is the sum of 681 days of delay under 35 U.S.C. 154(b)(1)(A) and 570 days of delay under 35 U.S.C. 154(b)(1)(B),reduced by 208 days overlap, reduced by 188 days of Applicant delay.

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

The application is being forwarded to the Certificates of 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 fifty-five (855)** 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 : 7,678,930 B2

DATED : **March 16, 2010** **DRAFT**

INVENTOR(S) : Sondbo 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 912 days

Delete the phrase "by 912 days" and insert – by 855 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAY 13 2011
OFFICE OF PETITIONS

THE FARRELL LAW FIRM, P.C.
290 Broadhollow Road
Suite 210E
Melville NY 11747

In re Application of Jae-Kun LEE Application No. 10/521,034 Filed: 12 January 2005 Atty. Docket No. 1234-11	DECISION DISMISSING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 4 October 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 mailing 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 final Office action mailed 5 January 2010 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 6 April 2010, and a Notice of Abandonment mailed 3 August 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant Petition lacks item (1).

Regarding item (1), for the following reason: under MPEP 711.03(c)(II)(A)(2)(b), a reply for consideration of a petition for revival must be "(A) A Notice of Appeal and appeal fee; (B) an amendment under 37 CFR 1.116 that ... *prima facie* places the application in condition for allowance; (C) an RCE ... or (D) the filing of a continuing application."

Whereas Applicant has submitted amended claims, the claims are deemed to not put the case in condition for allowance (*See*, "Advisory Action" attached herewith). The submitted reply is not accepted, and the Petition cannot be granted.

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

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

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

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

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Anthony Knight
Director
Office of Petitions

Encl. PTO-303, "Advisory Action Before the Filing of an Appeal Brief"

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 04 2011

OFFICE OF PETITIONS

THE FARRELL LAW FIRM, P.C.
290 Broadhollow Road
Suite 210E
Melville NY 11747

In re Application of	:	
Jae-Kun LEE	:	DECISION GRANTING PETITION
Application No. 10/521,034	:	UNDER 37 CFR 1.137(b)
Filed: 12 January 2005	:	
Atty. Docket No. 1234-11		

This is in response to the renewed petition under 37 CFR 1.137(b), filed July 12, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to final Office action mailed 5 January 2010 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 6 April 2010, and a Notice of Abandonment mailed 3 August 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the from of a Request for Continued Examination (RCE) and RCE fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

It is noted that Petitioner has paid the fee for petition under 37 CFR 1.137(b) twice (October 4, 2010 and July 12, 2011). Therefore, $810 will be refunded to petitioner.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 3732 for further action on the application.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of	:	
William G. North et al.	:	
Application No. 10/521,091	:	DECISION ON PETITION
Filed: October 11, 2005	:	TO WITHDRAW
Attorney Docket No. **WOO-P01-001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 23, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that the application has issued into a patent on September 7, 2010, and that Hannah R. Koyfman does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/06/11

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10521325 Patent No.: 7723373

CofC mailroom date: 12/20/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: All corrections have been approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Joseph K. McKane/

SPE, Art Unit 1626

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)
7316330	2008-01-08	10521347	2005-01-13	HMNZ 200036US01

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	/Scott A. McCollister/	Date (YYYY-MM-DD)	2012-02-27
Name	Scott A. McCollister	Registration Number	33961

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. 7316330
Issue Date: January 8,2008
Application No. 10521347
Filed: January 13,2005
Attorney Docket No. HMNZ 2 00036

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

This is a decision on the electronic petition, filed February 27,2012 ,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 27,2012 . 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

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

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

MAILED
SEP 22 2011
OFFICE OF PETITIONS

In re Application of :
Hewes et al. :
Application No. 10/521,507 : DECISION ON PETITION
Filed: January 18, 2005 :
For: INTEGRATED INTERACTIVE :
MESSAGING SYSTEM AND METHOD :

This is a decision on the petition, filed September 16, 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 under 37 CFR 1.181 is **GRANTED**.

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

This application was held abandoned for failure to reply to the Notice of Allowance mailed May 25, 2011, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on September 8, 2011.

Petitioner asserts that the Notice of Allowance dated May 25, 2011 was not received because a revocation of power of attorney and change of address submitted April 27, 2010 was not entered.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance May 25, 2011. In this regard, the Office received a change of address on April 27, 2010, prior to the mailing of the Notice of Allowance of May 25, 2011. Office records were not updated to reflect this new change of address. Accordingly, as the Notice of Allowance was mailed to an incorrect address, the Notice of Abandonment mailed September 8, 2011 is hereby vacated and the holding of abandonment withdrawn.

In light of the submission of the issue and publication fees, re-mailing of the Notice of Allowance and Notice of Allowability is not required.

This application is being referred to the Office of Data Management for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions 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	10521532
Filing Date	19-Aug-2005
First Named Inventor	Mathias Muth
Art Unit	1742
Examiner Name	PATRICK BUTLER
Attorney Docket Number	034423/286628
Title	Device and method of liquid-permeable perforation of a nonwoven

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 826

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	Fiberweb Corovin GmbH
Address	Woltorfer Strasse 124
City	Peine
State	
Postal Code	D-31224
Country	DE

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/John E Johnson III/
Name	John E Johnson III
Registration Number	58367

UNITED STATES 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 : January 24, 2012

In re Application of :

Mathias Muth

Application No : 10521532

Filed : 19-Aug-2005

Attorney Docket No : 034423/286628

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 January 24, 2012

The request is **APPROVED.**

The request was signed by John E Johnson III (registration no. 58367) on behalf of all attorneys/agents associated with Customer Number 826 . All attorneys/agents associated with Cusotmer Number 826 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 Fiberweb Corovin GmbH

Name2

Address 1 Woltorfer Strasse 124

Address 2

City Peine

State

Postal Code D-31224

Country DE

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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AUG 12 2010

OFFICE OF PETITIONS

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

In re Application of	:	
Anthony Thomas HARCOMBE, et al	:	
Application No. 10/521,546	:	DECISION ON PETITION
Filed: February 23,2006	:	
Docket No. DP-308837	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 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 14, 2008, 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 15, 2008. A Notice of Abandonment was mailed September 17, 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 $1620; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on June 24, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3747 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,767,266	:	
Issue Date: August 3, 2010	:	
Application No. 10/521,566	:	NOTICE
Filed: January 18, 2005	:	
Attorney Docket No. 0104-0499PUS1	:	

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.

This application is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: PAUL C. LEWIS
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST, P.O. BOX 747
FALLS CHURCH, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN NJ 07041

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of :
Bertrand, et al. :
Application No. 10/521,579 : DECISION
Filed/Deposited: 4 May, 2005 :
Attorney Docket No. BC-01US :

This is a decision on the papers filed on 10 August, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

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 pursuant to 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on 10 February, 2011, with reply due absent extension of time on or before 10 March, 2011.

The application went abandoned by operation of law after midnight 10 March, 2011.

The Office mailed the Notice of Abandonment on 2 August, 2011.

On 10 August, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—and made the showing that the Appeal Brief and Fee was due on 10 March, 2011, and that the period

was extendable to 10 August, 2011, on which date Petitioner filed a request and fee for extension of time and an Appeal Brief and fee, which demonstrated that the Technology Center/AU had precipitously mailed the Notice of Abandonment. Thus Petitioner made the showing consistent with the guidance in the Commentary at MPEP §711.03(c)(I).

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

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

> accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

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.[2]

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

STATUTES, REGULATIONS

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

---

[1] *See*: MPEP §711.03(c) (I)(B).

[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 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

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

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]

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 to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted**, and the 2 August, 2011, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 1781 for further processing (Examiner's Answer) in due course.

---

[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).

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.

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 7/28/10

TO SPE OF : ART UNIT: 1632 Attn: PARAS JR PETER (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/521634 Patent No.: 7518033

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

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Please check the drawings

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

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

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

Comments: The amendment to the sequence in col. 20, lines 58-59, has not been entered. It is not readily apparent that the sequence was missing a nucleotide; accordingly, the change is new matter, and has not been entered.

/Peter Paras/ SPE Art Unit 1632
8/4/10
SPE **Art Unit**

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,205,334	2007-04-17	10/521,930	2005-04-18	232046

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	/Elizabeth M. Crompton/	Date (YYYY-MM-DD)	2011-09-27
Name	Elizabeth M. Crompton	Registration Number	58852

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. 7205334
Issue Date: April 17,2007
Application No. 10521930
Filed: April 18,2005
Attorney Docket No. 232046

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

This is a decision on the electronic petition, filed September 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 September 27,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

MAILED
NOV 23 2010
OFFICE OF PETITIONS

In re Application of :
Kaminski :
Application No. 10/521,936 :
Filed: February 7, 2006 :
Attorney Docket No. 0088567-027US0

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed on September 3, 2010.

The petition is **DISMISSED AS MOOT**.

A review of the application file revealed that a Notice of Panel Decision From Pre-Appeal Brief Review was mailed in this application on March 4, 2010. The notice allowed a period for filing appeal brief of one month from its mailing date or the balance of the two month period from the receipt of the Notice of Appeal. In any case, the notice also stated that extensions of the times set for reply were available pursuant to 37 CFR 1.136(a). The Notice of Appeal was filed January 6, 2010. On September 3, 2010, an appeal brief was filed along with the instant petition.

This petition is improper because it has been filed prematurely as the application is not abandoned. The petition was filed during the extendable period set for reply to the Notice of Panel Decision From Pre-Appeal Brief Review[1], and the appeal brief is considered timely filed as long as it is accompanied by a request for an extension of time within the fifth month. A request for an extension of time within the fifth month is also noted as having been obtained on September 3, 2010—within the period for reply to the Notice of Panel Decision From Pre-Appeal Brief Review. Accordingly, the petition fee of $810.00 is being refunded.

The application file will be directed to Technology Center 1600, GAU 1633 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] The period for reply ran from the mailing date of the Notice of Panel Decision from Pre-Appeal Review with one month given and five additional months extendable. The extended period for reply to the notice ended September 4, 2010.

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MAILED
JUN 20 2011
OFFICE OF PETITIONS

Fish & Richardson P.C. (B0)
P O Box 1022
Minneapolis MN 55440-1022

In re Patent No. 7,517,965	:
Koga et al.	: DECISION UPON REMAND AND
Issue Date: April 14, 2009	: RECONSIDERATION OF
Application No. 10/522,086	: PATENT TERM ADJUSTMENT
Filed: October 5, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 14875-138US1/C1-AO214P-US	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Non-Neutralizing Anti-APC antibodies	:

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 seven hundred fourteen (714) 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 seven hundred fourteen (714) 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 : 7,517,965 B2

DATED : **April 14, 2009** **DRAFT**

INVENTOR(S) : Koga 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 356 days

Delete the phrase "by 356 days" and insert – by 714 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
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Princeton NJ 08543-5312

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of
Franck Abelard et al.
Application No. 10/522,111
Filed: January 25, 2005
Attorney Docket No. PF020097

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 7, 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 November 18, 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 February 19, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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 2481 for appropriate action by the Examiner in the normal course of business on the reply received June 7, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Reitseng Lin
2 Independence Way
P.O. Box 5312
Princeton, NJ 08543

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED

JUL 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,862,807 :
Issue Date: January 4, 2011 :
Application No. 10/522,128 : ON PETITION
Filed: February 27, 2006 :
Attorney Docket No. **041673-3108** :

This is a decision on the petition filed June 30, 2011, 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 "The Regents of the University of California."

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 an assignment from Murray Goodman, Churl Min Seong, and Guido Harms to The Regents of the University of California was recorded on February 1, 2011, **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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 10 2011
OFFICE OF PETITIONS

HOXIE & ASSOCIATES LLC
75 MAIN STREET, SUITE 301
MILLBURN NJ 07041

In re Application of :
Ali et al. :
Application No. 10/522,208 :
Filed: October 27 2005 :
Attorney Dkt. No. AC-21-US :
For: PIPERIDINETRIOL :
DERIVATIVES AS INHIBITORS OF :
GLYCOSYCERAMID SYNTHASE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed June 2, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from six hundred eighty-seven (687) days to eight hundred eighty-eight (888) 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].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

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

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
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

NOV 24 2010

OFFICE OF PETITIONS

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

In re Application of
Markus Urich, et al.
Application No. 10/522,344
Filed: August 25, 2005
Attorney Docket No. 12684.0013USWO

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 22, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 29, 2009 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 3752 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS NM 87059-7507

MAILED

FEB 27 2012

PCT LEGAL ADMINISTRATION

In re Application of :
Lucht et al. :
Application No.: 10/522,608; 13/143,236 :
PCT No.: PCT/EP2003/005545 :
Int. Filing Date: 27 May 2003 : DECISION
Priority Date: 29 May 2002 :
Attorney Docket No.: AFK-16214-WO-US :
For: Safety Belt Retractor Having A Pretensioning Device :

This is in response to the correspondence filed on 05 July 2011 and assigned to application no. 13/143,236.

BACKGROUND

This international application was filed on 27 May 2003, claimed an earlier priority date of 29 May 2002, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 04 December 2003. The period for payment of the basic national fee in the United States expired as of midnight on 29 November 2004.

Applicants filed *inter alia* a basic national fee directed toward said international application in 10/522,608 on 27 January 2005.

On 05 July 2011, applicants filed correspondence via EFS-Web, directed toward the same international application number, PCT/EP2003/005545. Said correspondence was assigned to application no. 13/143,236.

DISCUSSION

Review of the record reveals that applicants have filed two sets of correspondence, 10/522,608 and 13/143,236,, directed toward the national stage under 35 U.S.C. 371 of the same international application, PCT/EP2003/005545. Any particular international application under the PCT culminates in a single national stage entry in the United States under 35 U.S.C. 371; multiple national stage entries of a single PCT application are not permitted. Inspection of 13/143,236 reveals that the first sentence of the specification includes a cross-reference to 10/522,608, and that the drawings are captioned as "CIP Application of 10/522,608..." These indicia suggest that the submission may have been intended as a new continuation-in-part under 35 U.S.C. 111(a), rather than as a follow-on to 10/522,608. However, the EFS Acknowledgment Receipt reveals that applicants characterized the submission as a new 35 U.S.C. 371 submission upon filing. As such, it is not adequately clear what treatment applicants intended for the correspondence placed in 13/143,236. Pending clarification from applicants, further processing of 13/143,236 will be held in abeyance.

DECISION

The application papers are **NOT ACCEPTED**, without prejudice, as described above.

A proper response (as described herein) must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/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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MAILED
APR 21 2011
OFFICE OF PETITIONS

BORDEN LADNER GERVAIS LLP
ANNE KINSMAN
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

In re Application of	:	
Javad Khajehpour	:	
Patent No. 7,245,187	:	NOTICE
Application No. 10/522,654	:	
Filed: August 25, 2005	:	
Attorney Docket No. PAT 3281W-2		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 21, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/06/11

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10522696 Patent No.: 7605278

CofC mailroom date: 09/29/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes to claim 9 and 11 be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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: Corrects obvious typographical error in claims.

/Janet L. Andres/ — **SPE**

1625 — **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.
10/522,839	06/06/2005	Joachim Kiefer	15588-00007-US	4211

23416 7590 09/22/2011
CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

EXAMINER
HU, HENRY S

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
09/22/2011	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110913-1

DATE : September 20, 2011

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction on Patent No.: 7,727,651

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:

Disapproved: The change at line 2 in each of one claims 18 & 19 for units of viscosity is inconsistent with p. 30, lines 28-30 of the specification. Claims 18 and 19 describe "proton" conductivity whereas the cited portion of the specification describes "intrinsic" conductivity.

SPE: /Vasu Jagannathan/ **Art Unit** 1764

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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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

MAILED
FEB 09 2012
OFFICE OF PETITIONS

In re Application of
David Peasley, et al.
Application No. 10/522,856
Filed: December 2, 2005
Attorney Docket No.: A2700

ON PETITION

This is a decision in response to the petition, filed December 22, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 29, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 30, 2008. A Notice of Abandonment was mailed on July 7, 2008. On December 22, 2011, the present petition was filed.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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 $1,860; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3685 for appropriate action by the Examiner in the normal course of business on the amendment filed December 22, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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.
10/523,011	02/01/2005	Michiyuki Sugino	1152-0315PUS1	7483

2292 7590 03/26/2012
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
XIAO, KE

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
03/26/2012	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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of:	:	
SUGINO, MICHIYUKI. et al	:	
Application Serial No.: **10/523,011**	:	DECISION
Filed: **February 1, 2005**	:	ON PETITION
For: LIQUID CRYSTAL DISPLAY DEVICE	:	
	:	

This is a decision on the petition filed December 23, 2011 under 37 CFR § 1.181, requesting the Director to invoke his supervisory authority in order to insure compliance with the review by the Supervisory Patent Examiner of Art Unit 2629 in accordance with MPEP 707.02.

As per petitioner's request, Supervisory Patent Examiner Sumati Lefkowitz was consulted. She confirmed that she reviewed the office action mailed October 24, 2011 and agreed with the examiner's position. The MPEP requires review by the Supervisory Patent Examiner in this situation but does not require a written statement confirming this.

The application is now under Final rejection.

CONCLUSION

For the above stated reasons, the petition requesting the Director to invoke his supervisory authority in order to insure compliance with the review by the Supervisory Patent Examiner in the application is **DISMISSED.**

The period for response continues to run from the date of the Final rejection.

Any inquiry regarding this decision should be directed to Reinhard Eisenzopf, Quality Assurance Specialist, at (571) 272-8485.

Tariq Hafiz, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,708,707 B2
Ser. No. : 10/523,023
Inventor(s) : Cook et al.
Issued : May 4, 2010
Title : INFLATABLE DEVICE FOR USE IN IMPULSE THERAPY
Docket No. : 4140-0112PUS1
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/523,065	09/08/2005	Mark Beckmann	03869.105734	7574

86528 7590 08/20/2010
King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin, TX 78701

EXAMINER
ZEWARI, SAYED T

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
08/20/2010	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):

AustinUSPTO@kslaw.com
AustinIP@kslaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin TX 78701

Applicant: Beckmann et al.
Appl. No.: 10/523,065
Filing Date: September 8, 2005
Title: METHOD, SUBSCRIBER DEVICE AND RADIO COMMUNICATION SYSTEM FOR TRANSMITTING USER DATA MESSAGES
Attorney Docket No.: 03869.105734
Pub. No.: US 2006/0094441 A1
Pub. Date: May 4, 2006

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on August 17, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

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.
10/523,065	09/08/2005	Mark Beckmann	03869.105734	7574

86528 7590 09/10/2010
King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin, TX 78701

EXAMINER
ZEWARI, SAYED T

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
09/10/2010	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):

AustinUSPTO@kslaw.com
AustinIP@kslaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin TX 78701

Applicant: Beckmann et al.
Appl. No.: 10/523,065
Filing Date: September 8, 2005
Title: METHOD, SUBSCRIBER DEVICE AND RADIO COMMUNICATION SYSTEM FOR TRANSMITTING USER DATA MESSAGES
Attorney Docket No.: 03869.105734
Pub. No.: US 2006/0094441 A1
Pub. Date: May 4, 2006

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on August 30, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110502

DATE : April 29, 2011

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7803328

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:

Claims 16, 16 and 18 were former claims 33, 34 and 35 now renumbered.

/Emily M Le/
Supervisory Patent Examiner, Art Unit 1734

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.
10/523,117	10/13/2005	Francois-Xavier Berthet	B45315	8407

23347 7590 08/09/2011
GLAXOSMITHKLINE
GLOBAL PATENTS
FIVE MOORE DR., PO BOX 13398
MAIL STOP: C2111.2F
RESEARCH TRIANGLE PARK, NC 27709-3398

EXAMINER
NAVARRO, ALBERT MARK

ART UNIT	PAPER NUMBER
1645	

NOTIFICATION DATE	DELIVERY MODE
08/09/2011	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):

USCIPRTP@GSK.COM
ELAINE.X.MARTENS@GSK.COM
PATRICIA.T.WILSON@GSK.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 0 5 2011

In re Application of	:	
Francois-Xavier Berthet, et al.	:	
Serial No. 10/523117	:	NOTICE OF WITHDRAWAL
Filed: October 13, 2005	:	FROM ISSUE
For: **NEISSERIAL VACCINE COMPOSITIONS**	:	UNDER 37 CFR 1.313 (B)
COMPRISING A COMBINATION OF ANTIGENS	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

GLAXO SMITH KLINE
GLOBAL PATENTS
FIVE MOORE DR, PO BOX 13398
MAIL STOP C2111.2F
RESEARCH TRIANGLE PARK, NC 27709-3398

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BRINKS HOFER GILSON & LIONE/INFINEON
INFINEON
PO BOX 10395
CHICAGO, IL 60610

MAILED
OCT 25 2010
OFFICE OF PETITIONS

In re Application of :
Franz Schuler, et al. :
Application No.: 10/523,239 :
Filed: September 28, 2005 :
Attorney Docket No.: 10808/206 :

ON PETITION

This is a decision on the petition, filed October 21, 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 September 15, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2814 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/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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Alexandria, VA 22313-1450
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MAILED

AUG 27 2010

OFFICE OF PETITIONS

McKeon Meunier Carlin & Curfman LLC
817 W. Peachtree Street, Suite 900
Atlanta GA 30308

In re Patent No. 7,704,737	:	DECISION ON REQUEST FOR
Weiss et al.	:	RECONSIDERATION OF
Issue Date: April 27, 2010	:	PATENT TERM ADJUSTMENT AND
Application No. 10/523,253	:	NOTICE OF INTENT TO ISSUE
Filed: January 26, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No. **10021-021US1**		

This is a decision on the petition filed on June 22, 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 five hundred and sixty-four (564) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**. The term of the above-identified patent is extended or adjusted by **four hundred and fifteen (415) days**.

It is noted that patentees failed to account for the filing of the notice of appeal on April 15, 2008. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 18 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, April 15, 2008, and ending on the date the Office action under 35 U.S.C. 132 was filed, May 2, 2008. Thus, the B delay is 592 days (610 - 18).

No consideration will be given to patentee's arguments of additional adjustments for matters that occurred prior to the mailing of the notice of allowance. Further to this point, PALM records indicate that the issue fee payment was received in the

Office on February 2, 2010. No application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended February 2, 2010. Accordingly, relative to patentee's assertions of adjustments to the patent term entered prior to the mailing of the Notice of Allowance, it is appropriate to dismiss these arguments as untimely filed under § 1.705(b).

Accordingly, the patent term adjustment is 415 days (350 days of A delay + 592 days of B delay - 131 days of overlap - 396 days of applicant delay).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

This matter is being referred 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 **four hundred and fifteen (415) 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 : 7,704,737 B2

DATED : June 22, 2010

INVENTOR(S) : Weiss

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 (416) days

Delete the phrase "by 416 days" and insert – by 415 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **04/13/12**

TO SPE OF : ART UNIT: **1711 Attn: BARR MICHAEL E (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/523371** Patent No.: **8075704**

CofC mailroom date: **03/29/2012**

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 Claim 15 on PTO/SB/44 Form
Should this claim be deleted as requested 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: yes, claim 15 should be canceled.

Michael Barr
SPE 1711

4/16/12

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

MAILED
APR 11 2012
OFFICE OF PETITIONS

In re Application of Moran et al. :
Application No. 10/523,475 :
Int'l Filing Date: August 4, 2003 :
Attorney Docket No. 0110313-00139US2 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b) filed October 7, 2008, to revive the above-identified application.

The petition is **granted**.

Background

The Office issued a non-final Office action on April 2, 2008, which set a shortened statutory period for reply of three (3) months.

Neither a reply to the Office action nor a request for an extension of time was filed within the six-month statutory period. As a result, the application became abandoned on July 3, 2008.

Application No. 12/244,630 was filed October 2, 2008. Application No. 12/244,630 is a divisional of the instant application.

The instant application and payment for a three-month extension of time were filed October 7, 2008. The petition states revival is being sought "for the purpose of maintaining co-pendency with the Divisional Application filed on October 2, 2008."

Discussion

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, and

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of the submission of Application No. 12/244,630,[2] (2) the required petition fee of $810, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of Application No. 12/244,630.

Payment for an extension of time is unnecessary for relief to be granted under 37 CFR 1.137(b). *See* MPEP 711.03(c)(II)(A). In addition, the Office cannot accept an extension of time fee submitted after the expiration of the maximum extendable time period for reply. Therefore, the $555 extension of time fee submitted with the petition has been credited back to Deposit Account No. 08-0219.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

[2] Pursuant to 37 CFR 1.137(c), "In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application."

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/2/10

TO SPE OF : ART UNIT 3721 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/523,482 Patent No.: 7,266,934

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, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

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

SPE _____ **ART UNIT** 3721

UNITED STATES 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.
JUL 07 2011
OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Application of Burmester Application No. 10/523,570 Patent No.: 7,191,791 Filed: January 28, 2005 Issued: March 20, 2007 Attorney Docket No.: H01.2-11770 Title: DEVICE FOR ACTUATING DOUBLE SEAT VALVES	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on May 27, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $1400 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE GATES CORPORATION
IP LAW DEPT. 10-A3
1551 WEWATTA STREET
DENVER, CO 80202

MAILED

JAN 28 2011

OFFICE OF PETITIONS

In re Application of :
Yoshitaka Sato et al :
Application No. 10/523,708 : ON PETITION
Filed: September 6, 2005 :
Attorney Docket No. GUA-UTO-318 :

This is a decision on the petition, filed January 27, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 2011 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 3656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment previously filed January 18, 2011.

/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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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LICATA & TYRRELL PC
66 E MAIN STREET
MARLTON NJ 08053

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,678,889
Macina, et al.
Application No. 10/523,834
Issue Date: March 16, 2010
Filed: April 26, 2006
Attorney Docket No. DEX-0532

: 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 Determination under 37 C.F.R. §1.705(d)", filed March 23, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected.

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

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 54 days based upon 324 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 32, 61, 61, and 90 days of Applicant delay pursuant to 37 CFR 1.704(b), and 26 days of Applicant delay pursuant to 37 CFR 1.704(c)(8).

Patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. Commencement began on February 6, 2005 (i.e. 30 months from the priority date). Accordingly, the over three year period began on February 7, 2008 and ended on March 16, 2010 (the patent issue date), and is 769 days. See 35 U.S.C. 154(b)(1)(B)(i). Therefore, the "B" delay period is 769 days, not 324 days as originally calculated.

In view thereof, the correct number of days of patent term adjustment is 499 days (0 days of "A"' delay and 769 days of "B" delay, reduced by 270 (32+61+26+61+90) 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 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 **four hundred ninety-nine (499)** 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 : 7,678,889 B2

DATED : **March 16, 2010**

INVENTOR(S) : Macina 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 54 days.

Delete the phrase "by 54 days" and insert – by 499 days--

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BRIAN STEINBERGER/UCF
101 BREVARD AVENUE
COCOA FL 32922

MAILED
JUL 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,197,105
Issue Date: March 27, 2007
Application No. 10/523,867
Filed: February 7, 2005
Attorney Docket No. UCF 456US

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 20, 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED

JUN 01 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Matthew P. J. Baker, et al. :
Application No. 10/523,940 :
Filed: February 8, 2005 :
Attorney Docket No. 2002P00568WOUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2011, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 28, 2011 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 March 29, 2011. See MPEP 1214.06.

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) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED** *nunc pro tunc*.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

Telephone inquiries concerning this decision should be directed to the 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 2473 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.

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

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JAN 12 2011

OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

In re Patent No. 7,815,932	:	DECISION ON REQUEST
Ihara et al.	:	FOR
Application Number: 10/524,024	:	RECONSIDERATION OF
Issue Date: 10/19/2010	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/09/2005	:	
Atty Docket No.	:	
2005_0097A	:	

This is a decision on the petition filed on November 3, 2010, under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be revised to indicate that the term of the above-identified patent is extended or adjusted by eight hundred twenty-two (822) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of seven hundred sixty-nine (769) days.

As to the "B" delay period, the over three year period begins on February 10, 2008, the day after the date three years after the date the application commenced the national stage pursuant to 35 U.S.C. 371(f), and ends on June 5, 2009, and is 481 days. Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On April 13, 2009, a notice of appeal was filed. On June 5, 2009, the RCE was filed. Accordingly, the excluded period is the period from the date the notice of appeal was filed until June 4, 2009, the date before the date the RCE was filed, or 53 days. Considering the period excluded for appeals, the "B" delay period is 428 (481 – 53) days.

Patentees disclose that a period of reduction for applicant delay of 4 days should be entered for the filing of a supplemental response on April 23, 2009, four days after the day after the date a response was filed on April 17, 2009. On April 17, 2009, however, a Notice of Appeal was filed, as well as a response. The filing of a notice of appeal stops the clock for applicant delay. Accordingly, the filing of a supplemental response or other paper after the filing of a notice of

appeal is not considered a failure to engage within the meaning of § 1.702(c)(8). Therefore, no reduction is warranted in connection with papers filed on April 23, 2009.

Accordingly, no change will be made to the patent term adjustment of 769 (658 days Office delay + 428 days three years delay – 317 days of applicant delay) days as set forth on the face of the patent issued patent.

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

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

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) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Best Available Copy

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

MAILED

JAN 30 2012

OFFICE OF PETITIONS

In re Patent No. 8,062,805 Trifona et al. Issue Date: November 22, 2011 Application No. 10/524,040 Filed: February 9, 2005 Attorney Docket No. 10585.0023-00000 Title: MEMBRANE ELECTROCHEMICAL GENERATOR	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "APPLICANTION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed on January 20, 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 by one thousand seven hundred twenty-seven (1,727) days. This request is properly treated under 37 CFR § 1.705(d). Patentees dispute the 37 day reduction.

The petition to correct the patent term adjustment indicated on the above-identified patent is **Dismissed**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Patentees dispute the 37 day reduction taken for the submission of the corrected drawings submitted on October 17, 2011 after the mailing of the Notice of Allowance. Patentees maintain a 17 day reduction instead of a 37 day reduction is required.

Patentees' argument has been considered and determined to be not persuasive. A reduction of 37 days, not 17 days is required.

37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

37 CFR 1.704 (c)(10) provides:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

A review of the record shows a reduction pursuant to 37 CFR 1.704(c)(10) of 37 days for the submission of the drawings on October 17, 2011 is required. The reduction is calculated beginning October 17, 2011 and ending on November 22, 2011, the date the patent issued. The issue date is the response date, not the mailing of the issue notification.

In view thereof, the patent is entitled to an overall adjustment of 1707 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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,048	06/08/2005	Michael West	MJW-5066-5	6789

23117 7590 04/13/2011
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
OLSON, ERIC

ART UNIT	PAPER NUMBER
1623	

MAIL DATE	DELIVERY MODE
04/13/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 1 3 2011

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:	
West et al.	:
Serial No.: 10/524,048	:
Filed: February 8, 2005	: PETITION DECISION
Attorney Docket No.: **MJW-5066-5**	:
	:

This is in response to the Petition filed by applicants under 37 CFR § 1.181 on April 4, 2011, wherein applicants submit that the Notice of Improper Request for Continued Examination (RCE) was issued in error.

BACKGROUND

Most recently, a Notice of Improper RCE was issued on March 10, 2011. In response thereto, applicants filed a Petition under 37 CFR § 1.181 indicating that the Notice of Improper RCE was issued in error. In addition, applicants filed another RCE.

DECISION

The petition is **DISMISSED AS MOOT** in view of the proper RCE filed on April 4, 2011.

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, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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P.O. Box 1450
Alexandria, VA 22313-1450
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NEXSEN PRUET, LLC
P.O. BOX 10648
GREENVILLE SC 29603

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Gordhanbhai N. Patel	:	
Application No. 10/524,096	:	DECISION ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. 27845-18	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, June 28, 2011, which set a shortened statutory period for reply of three (3) months. A two month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 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 a RCE (Request for Continued Examination, with the required fee of $465, (2) the petition fee of $930, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 1787 for appropriate action by the Examiner in the normal course of business on the reply received January 10, 2012.

/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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/524,096	02/09/2005	Gordhanbhai N. Patel	27845-18

CONFIRMATION NO. 4381

POA ACCEPTANCE LETTER

46591
NEXSEN PRUET, LLC
P.O. BOX 10648
GREENVILLE, SC 29603

OC000000051945529

Date Mailed: 01/12/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2012.

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.

/kainabinet/

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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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

MAILED
SEP 15 2010
OFFICE OF PETITIONS

In re Application of :
Theodore J. Nitz et al :
Application No. 10/524,162 : ON PETITION
Filed: June 17, 2005 :
Attorney Docket No. MICRODOSE 09.06

This is a decision on the petition, filed September 14, 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 August 25, 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 1626 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

DATE : 08/12/11

TO SPE OF : ART UNIT 1767

SUBJECT : Request for Certificate of Correction for Appl. No.: 10524301 Patent No.: 7923485

CofC mailroom date: 08/01/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: The change to column 20 is NOT approved and therefore not entered. The proposed change to column 20 woul dchange the scope and meaning of claim 15.

/Mark Eashoo/ 1796

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : December 17, 2010

Patent No. :7455146
Ser. No. :10/524351
Inventor(s) : Stefan BROSIG, et al.
Issued :November 25, 2008
Title :METHOD AND DEVICE FOR RECOGNIZING THE LEVEL OF AWARENESS OF A :VEHICLE DRIVER

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
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197

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.

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

Norris McLaughlin & Marcus, P.A.
875 Third Avenue – 8th Flr.
New York, New York 10022

/arg

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

LONDA, BRUCE S.
NORRIS MCLAUGHLIN & MARCUS, PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

MAILED
JAN 10 2011
OFFICE OF PETITIONS

In re Application of Brosig et al. Application No. 10/524,351 In re Patent No. 7,455,146 Filing Date: August 9, 2005 Issue Date: November 25, 2008 Attorney Docket Number: 101215-178 Title: METHOD AND DEVICE FOR RECOGNIZING THE LEVEL OF AWARENESS OF A VEHICLE DRIVER	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 3.81(B)

This is a decision on the "PETITION TO CORRECT ASSIGNEE'S NAME ON PATENT UNDER 37 CFR 1.183," filed May 13, 2010, 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. On December 10, 2010, Petitioner submitted a "Certificate of Correction" for this purpose, which requests that the assignee be listed as "Volkswagen Aktiengesellschaft, Wolfsburg, Germany."

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 August 9, 2005, listing Volkswagen Aktiengesellschaft of Wolfsburg, Germany 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.

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

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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HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of :
Phillip Neil Shaw et al :
Application No. 10/524,382 : ON PETITION
Filed: September 30, 2005 :
Attorney Docket No. 35365.4

This is a decision on the petition, filed June 8, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 16, 2011 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 1773 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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).

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GlaxoSMithKline
Global Patents
Five Moore Dr., PO Box 13398
Mail Stop: C211F
Research Triangle Park NC 27709-3398

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Patent No. 7,635,701	:
Eatherton et al.	: DECISION UPON REMAND AND
Issue Date: December 22, 2009	: RECONSIDERATION OF
Application No. 10/524,470	: PATENT TERM ADJUSTMENT
Filed: February 28,2006	: AND NOTICE OF INTENT
Attorney Docket No. P33099USW	: TO ISSUE CERTIFICATE OF
Title: Pyrimidine Derivatives	: CORRECTION
And Their Use As CB2 Modulators	:

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 eight hundred and fifty (850) 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 eight hundred and fifty (850) 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 : 7,635,701

DATED : **December 22, 2009** **DRAFT**

INVENTOR(S) : Eatherton 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 550 days

Delete the phrase "by 550 days " and insert – by 850 days--

Day : Monday
Date: 9/20/2010

PALM INTRANET

Time: 13:43:08

PTA Calculations for Application: 10/524470			
Application Filing Date:	02/28/2006	PTO Delay (PTO):	669
Issue Date of Patent:	12/22/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	119
Post-Issue Petitions:	0	Total PTA (days):	850
PTO Delay Adjustment:	300		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	09/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	300		
79.5	12/02/2009	PTA 36 MONTHS	142		
79	12/22/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
78	10/29/2009	EXPORT TO FINAL DATA CAPTURE			
77	10/27/2009	FINISHED INITIAL DATA CAPTURE			
76	10/28/2009	DISPATCH TO FDC			
75	10/27/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
74	10/22/2009	ISSUE FEE PAYMENT VERIFIED			
73	10/22/2009	ISSUE FEE PAYMENT RECEIVED			
71	07/31/2009	ELECTRONIC REVIEW			
67	07/28/2009	MAIL NOTICE OF ALLOWANCE			
66	07/23/2009	ISSUE REVISION COMPLETED			
65	07/23/2009	DOCUMENT VERIFICATION			
64	07/20/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	07/20/2009	EXAMINER'S AMENDMENT COMMUNICATION			
62	07/20/2009	NOTICE OF ALLOWABILITY			
61	03/02/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	06/29/2009	DATE FORWARDED TO EXAMINER			
59	05/05/2009	RESPONSE AFTER NON-FINAL ACTION		64	52
58	04/11/2009	EMAIL NOTIFICATION			
56	04/10/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
55	03/02/2009	REFERENCE CAPTURE ON IDS			

54	03/02/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	04/08/2009	DATE FORWARDED TO EXAMINER			
52.1	03/02/2009	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
52	03/02/2009	RESPONSE AFTER NON-FINAL ACTION		55	47
51	03/02/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
50	03/02/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	10/07/2008	ELECTRONIC REVIEW			
48	10/06/2008	EMAIL NOTIFICATION			
47	10/06/2008	MAIL NON-FINAL REJECTION	527		19
46	09/29/2008	NON-FINAL REJECTION			
45	06/17/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	06/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	01/22/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	06/17/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
37	06/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	12/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
35	12/15/2007	TRANSFER INQUIRY TO GAU			
34	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
33	10/15/2007	FLAGGED FOR 5/25			
32	06/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	06/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	05/07/2007	PRELIMINARY AMENDMENT			
22	01/22/2007	REFERENCE CAPTURE ON IDS			
21.7	01/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	01/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/28/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	02/28/2006	371 COMPLETION DATE			
18	03/02/2007	APPLICATION DISPATCHED FROM OIPE			

17	03/05/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
16	12/28/2006	PG-PUB ISSUE NOTIFICATION			
15	09/25/2006	CLEARED BY OIPE CSR			
14	09/24/2006	CLEARED BY OIPE CSR			
13	09/24/2006	CLEARED BY OIPE CSR			
12	09/24/2006	CLEARED BY OIPE CSR			
11	09/24/2006	CLEARED BY OIPE CSR			
10	09/24/2006	CLEARED BY OIPE CSR			
9	09/18/2006	PCT CLASSIFICATION			
8	02/28/2006	ADDITIONAL APPLICATION FILING FEES			
7	02/28/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	08/23/2006	MAIL-PETITION DECISION - GRANTED			
5	02/28/2006	PETITION ENTERED			

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/26/10

Paper No.: _____

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/524476 Patent No.: 7704976 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.

XXXX ☐ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/ 9/22/2010 SPE of 1623

UNITED STATES PATENT AND TRADEMARK OFFICE

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TORONTO ONTARIO M5H 3R3 CA CANADA

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Kaplan et al.	:	
Application No. 10/524,547	:	DECISION ON PETITION
Filed: October 26, 2005	:	
Attorney Docket No. 1658-8/AMK	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed January 7, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 8, 2009. A Notice of Abandonment was mailed March 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Further, petitioner contends that "The Applicants were of the belief that they were entitled to receive an advisory action before the expiry of the six month period after the final action ending on July 7, 2009."

However, **35 U.S.C. 133 Time for prosecuting application 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.

Further, § 1.135 Abandonment for failure to reply within time period states:

(a) If an applicant of a patent application fails to reply within the time period provided under **§ 1.134** and **§ 1.136**, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. **The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.**

Therefore, since the final rejection was mailed January 7, 2009 and no proper reply was received from applicant, the application became abandoned on April 8, 2009.

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.

This matter is being referred to Technology Center 1654 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Adrian M. Kaplan
Bay Adelaide Centre
333 Bay Street, Suite 2900
P.O. Box 2900
Toronto, Ontario Canada M5H 2T4

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KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA VA 22314-2848

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Shigemitsu Kikuchi, et al.	:	
Application No. 10/524,631	:	ON PETITION
Filed: March 29, 2007	:	
Attorney Docket No. KUD-003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, 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 February 1, 2010, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 3, 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 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. 12/849,653.

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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Paper No.

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Miyaji et al.	:	DECISION ON APPLICATION
Application No. 10/524,666	:	FOR
Patent No. 7,851,503	:	PATENT TERM ADJUSTMENT
Filed: February 11, 2005	:	
Issued: December 14, 2010	:	
Attorney Docket No. 265792US0PCT	:	
Title: THROMBOPOETIN RECEPTOR	:	
ACTIVATOR AND PROCESS FOR	:	
PRODUCING THE SAME	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.705(d) and REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 19, 2011. Patentee requests that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from one thousand, one hundred and sixteen (1116) days to one thousand, one hundred and fifty-two (1152) 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 and ninety-eight (1098) days is **GRANTED to the extent indicated herein.**

The Office has determined that the patent term adjustment for the above-identified patent is **1098 days.**

RELEVANT BACKGROUND

A Notice of Allowance and Issue Fee Due was mailed on August 9, 2010, with an indication that the patent term adjustment to date

was 648 days. This patent issued on December 14, 2010, with a patent term adjustment of 1116 days.

Patentee has disputed one period of delay: the 36-day reduction associated with the filing of a paper after a notice of allowance has been mailed. 37 CFR § 1.704(c)(10) indicates that the submission of a either an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed will result the period of adjustment set forth in § 1.703, and the reduction will constitute the lesser of:

- the number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper, or;
- four months.

The aforementioned notice of Allowance and Issue Fee Due was mailed on August 9, 2010, along with an indication that the title of the application is "THROMBOPOETIN RECEPTOR ACTIVATOR AND PROCESS **FOR PRODUCING THE SAME** (emphasis added)." This version will hereinafter be referred to as "original title." On November 9, 2010, Applicant submitted the issue fee along with a Supplemental Application Data Sheet (ADS), correcting the title to "THROMBOPOI**E**TIN RECEPTOR ACTIVATOR**S** AND PROCESS FOR **THEIR PRODUCTION** (emphases added)." This version will hereinafter be referred to as "corrected title." The corrected title contains three changes: the addition of the letter "i," the addition of the letter "s," and changing the text "producing the same" to "their production."

The patent issued 35 days after the filing of the Supplemental ADS. This warrants a reduction of 36 days pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the supplemental response was filed is included in the period of delay.

Patentee argues that the 36-day reduction is not warranted, as the submission of a request to correct an error in a notice of allowance after the mailing of a notice of allowance is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Patentee cites to MPEP § 2732 which sets forth, *in pertinent part*:

> "Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is **not** (emphasis included) considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" (emphasis added) and (7) letters related to government interests (e.g., those between NASA and the Office)."

Analysis

The record supports a conclusion that this patent is not subject to a terminal disclaimer.

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

Patentee's argument has been considered and has been found to be unpersuasive. The record supports a conclusion that each of these three changes was necessitated by Patentee's filing error. A discussion follows.

The Office agrees that the application was filed on February 11, 2005 along with a specification that contains the corrected title.[1] However, it is noted with interest that the filing of February 11, 2005 also contained an ADS which contains the original title. Pursuant to 37 C.F.R. § 1.76(d), in situations where inconsistent information is provided simultaneously, the ADS governs. It follows that the Office properly entered the original title, as directed by Patentee on the ADS that was submitted on initial deposit.

A review of the record shows that the filing receipt that was mailed to Patentee on August 10, 2007 indicates that the filing receipt contains the original title. It does not appear that Patentee filed any amendments to the title or submitted a request for a corrected filing receipt. A review of the

[1] Petition, page 3.

prosecution history reveals that Patentee placed differing titles on subsequent filings before the Office: for example, the election of species that was filed on February 11, 2008 contains a hybrid of the original title and the corrected title,[2] however the election of species that was filed on March 19, 2009 contains the original title. Patentee's first attempt at correcting this discrepancy occurred after the mailing of the notice of allowance.

It follows that the filing of the supplemental ADS after the mailing of a notice of allowance was in effect an amendment to the title, and as such, the reduction pursuant to 37 C.F.R. § 1.704(c)(10) is warranted.

Moreover, a review of the record indicates that one additional period of applicant delay is warranted. A Request for Continued Examination (RCE) was filed on August 24, 2009, and an Information Disclosure Statement (IDS) was filed eighteen (18) days later on September 11, 2009. This warrants a reduction of eighteen (18) days, pursuant to 37 C.F.R. § 1.704(c)(8).[3]

CONCLUSION

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the patent term adjustment under 35 U.S.C. § 154(b) is not entitled to an adjustment of 1152 days based on the removal of the aforementioned Rule 1.704(c)(10) reduction. An additional reduction of eighteen (18) days is warranted however. As such, this patent is subject to a patent term adjustment of 1098 (694 examination delay + 559 B-delay - 55 overlap - 100 applicant delay) days.

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,

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[2] The filing contains no letter "i" as with the original title, as well as the inclusion of the letter "s" and the phrase "process for their production" as with the corrected title.

[3] The Information Disclosure Statement has been reviewed by the undersigned, and it is noted that a Rule 1.704(d) statement is not contained therein. See "INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.97," section entitled "CERTIFICATION."

from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

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 and ninety-eight (1098) 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 : 7,851,503 B2

DATED : **December 14, 2010** **DRAFT**

INVENTOR(S) : Miyaji 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 1116 days

Delete the phrase "by 1116 days" and insert – by 1098 days--

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ONE BROADWAY
NEW YORK NY 10004

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SEP 16 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Rehbein et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,589,290	:	PATENT TERM ADJUSTMENT
Issue Date: 09/15/2009	:	
Application No. 10/524726	:	
Filing or 371(c) Date: 02/16/2005	:	
Attorney Docket Number: 10191/4135	:	

This is a decision on the petition filed on May 21, 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 twenty-nine (29) 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 thirty-four (34) days is **DISMISSED**.

Applicants request 29 days of patent term adjustment pursuant to 37 CFR 1.703(b), 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), February 17, 2008, and ending on the day before the date a Request for Continued Examination ("RCE"), was filed, December 8, 2008.

As to the "B" delay, the period is zero (0) days, not 297 days. This period begins 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), and ends on May 30, 2005, the day before the RCE was filed, and is 297 days, but does not include the number of days 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, and ending on the date of mailing of the non-final Office action, March 29, 2005, or 105 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is zero (0) (297 days – 302 days), not 297 days[1].

[1] The Office notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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FOLEY AND LARDNER LLP
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WASHINGTON DC 20007

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MAR 14 2011

OFFICE OF PETITIONS

In re	:
Klinger, et al.	: DECISION REGARDING
Application No. 10/524,739	: PATENT TERM ADJUSTMENT
Filed: April 15, 2005	:
Patent No. 7,670,215	:
Issued: March 2, 2010	:
Attorney Docket No. 016906-0370	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)", filed April 30, 2010. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand one hundred thirty-two (1132) days to one thousand two hundred ninety-nine (1299) days.

The application for patent term adjustment is **DISMISSED**.

On March 2, 2010, the application issued into Patent No. 7,670,215 with a patent term adjustment of one thousand one hundred thirty-two (1132) days. Patentee submitted the instant application for patent term adjustment on April 30, 2010, asserting that the correct number of days of PTA is one thousand two hundred ninety-nine (1299) days. According to Patentees, the Office erroneously accorded one hundred sixty-seven (167) days of applicant delay under 37 CFR 1.704(c)(8) for the submission of an IDS on February 12, 2009, after Applicants had previously filed a an Amendment on August 29, 2008. Patentees state that the IDS contained a 37 CFR 1.704(d) statement, and therefore no applicant delay should have been accorded.

Pursuant to 37 C.F.R. §1.705(b), a request for reconsideration of the patent term adjustment indicated in the Notice of Allowance must be filed no later than payment of the issue fee.

Accordingly, Patentee's argument is untimely raised.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Director
Office of Petitions

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SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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JUN 27 2011

OFFICE OF PETITIONS

In re Patent No. 7,198,058	:	
Issue Date: April 3, 2007	:	
Application No.:10/524,744	:	NOTICE
Filed: May 26, 2003	:	
Attorney Docket No.: H01.2-11794	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed May 27, 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 change of status to a large entity has been entered and made of record.

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

It is noted that a small entity 3 ½ year maintenance fee of $490.00 was paid on September 23, 2010. As petitioner has not been entitled to small entity status since November 1996, patentee should promptly submit the fee deficiency with respect to the maintenance fee, as well.

This file is being forwarded to the Files Repository.

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

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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AUSTIN TX 78701

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AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Barrett et al.	:	DECISION ON APPLICATION
Application No. 10/524,939	:	FOR
Filed: March 4, 2008	:	PATENT TERM ADJUSTMENT
Docket No. UTSG: 260US/10309693	:	
Title: COMPOSITIONS AND METHODS	:	
RELATED TO FLAVIVIRUS ENVELOPE	:	
PROTEIN DOMAIN III ANTIGENS	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed June 2, 2010. Applicants request that the patent term adjustment indicated on the initial determination of patent term adjustment be corrected to reflect one period of Office delay.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen, however the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance remains zero days.

On March 2, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 0 days. On June 2, 2010, Applicants timely[1] filed the present application for patent term adjustment. Applicants dispute the Office's failure to accord an adjustment of 66 days pursuant to 37 CFR 1.703(a)(1).

[1] Office records show that the Issue Fee payment was received on June 2, 2010.

The record supports a conclusion that any patent issuing from this patent is not subject to a terminal disclaimer.

37 CFR 1.703(a)(1) states that the term of an original patent shall be adjusted by the failure of the Office to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application.

The application history has been reviewed and it has been determined that Applicants are correct in stating that 66 days of Office delay should have been accorded. Pursuant to the Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 that was mailed on July 18, 2008, this application fulfilled the requirements of 35 U.S.C. 371 in an international application on March 4, 2008. Applicants argue that this application "satisfied all 371(c) requirements[2]" on October 8, 2007. The Office agrees: the proper date of completion is not March 4, 2008, but rather October 8, 2007. As such, the Office was required to mail either "a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after" October 8, 2007. The Office mailed a restriction requirement fourteen months and 66 days later on February 12, 2009, resulting in 66 days of examination delay.

The adjustment of 0 days has been removed, and an adjustment of 66 days has been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance remains zero days (66 days of Office delay minus 68 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.

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[2] Petition, page 2.

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.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Thursday
Date: 7/29/2010

PALM INTRANET

Time: 14:46:29

PTA Calculations for Application: 10/524939			
Application Filing Date:	03/04/2008	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	68
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	66		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	07/29/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	66		
63	03/02/2010	MAIL NOTICE OF ALLOWANCE			
62	02/24/2010	ISSUE REVISION COMPLETED			
61	02/24/2010	DOCUMENT VERIFICATION			
60	02/24/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	02/24/2010	CASE DOCKETED TO EXAMINER IN GAU			
58	02/16/2010	EXAMINER'S AMENDMENT COMMUNICATION			
57	02/16/2010	NOTICE OF ALLOWABILITY			
56	10/30/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	12/11/2009	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
52	10/30/2009	REFERENCE CAPTURE ON IDS			
51	10/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	11/25/2009	NEW OR ADDITIONAL DRAWING FILED			
49	12/01/2009	DATE FORWARDED TO EXAMINER			
48	11/25/2009	RESPONSE AFTER NON-FINAL ACTION		68	45
47	11/25/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	10/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	06/18/2009	MAIL NON-FINAL REJECTION			
44	06/18/2009	NON-FINAL REJECTION			
43	04/24/2009	DATE FORWARDED TO EXAMINER			
42	04/13/2009	RESPONSE TO ELECTION / RESTRICTION FILED			
		REQUEST FOR EXTENSION OF TIME - GRANTED			

41	04/13/2009				
40	04/23/2009	FILING RECEIPT - CORRECTED			
39	02/12/2009	MAIL RESTRICTION REQUIREMENT			
38	02/11/2009	REQUIREMENT FOR RESTRICTION / ELECTION			
37	11/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	11/23/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
35	11/13/2008	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
34	03/31/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
33	03/04/2008	PRELIMINARY AMENDMENT			
30	10/30/2008	PG-PUB ISSUE NOTIFICATION			
29	08/21/2008	FILING RECEIPT - CORRECTED			
28	08/06/2008	APPLICATION DISPATCHED FROM OIPE			
27	03/04/2008	371 COMPLETION DATE			
26	07/18/2008	SENT TO CLASSIFICATION CONTRACTOR			
25	07/18/2008	FILING RECEIPT			
24	07/18/2008	NOTICE OF DO/EO ACCEPTANCE MAILED			
23	03/04/2008	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
22	03/04/2008	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
21	03/04/2008	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

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OFFICE OF PETITIONS

In re Application of	:	
Petrus Maria De Greef, et al.	:	
Application No. 10/524,968	:	DECISION GRANTING PETITION
Filed: February 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 348162-982270	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 3, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and amendment.

/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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 01 2010

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH AND BIRCH LLP
P O BOX 747
FALLS CHURCH, VA 22040

In re Application of	:	
Nakamura et al.	:	DECISION ON PETITION
Application No. 10/525,021	:	TO WITHDRAW
Filed: February 18, 2005	:	FROM RECORD
Attorney Docket No. 05273.0127-00000	:	

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 3, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 02292 was revoked by the assignee of the patent application on August 4, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise properly notified.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/16/2010

TO SPE OF : ART UNIT 2621 (2600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/525,164 Patent No.: 7,606,312

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, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

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

_____

_____

_____

SPE /Joseph Ustaris/ **ART UNIT** 2483

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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

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,652,650	:
Takagi et al.	: DECISION ON REQUEST FOR
Issue Date: January 26, 2010	: RECONSIDERATION OF
Application No. 10/525,203	: PATENT TERM ADJUSTMENT
Filed: February 22, 2005	: AND NOTICE OF INTENT
Attorney Docket No. SON-2815	: TO ISSUE CERTIFICATE OF
Title: CURRENT OUTPUT DRIVE	: CORRECTION
CIRCUIT AND DISPLAY DEVICE	:

This is a decision on the petition filed on February 23, 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 three hundred fifty-eight (1,358) days. The May 18, 2010 decision based upon the Request for Recalculation of Patent Term Adjustment in View of Wyeth granted 1,189 days of patent term adjustment.

The petition to correct the patent term adjustment to indicate one thousand three hundred fifty-eight(1,358) days is **DISMISSED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 654 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 704 days (February 23, 2008 to January 26, 2010).

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 Notice of Appeal filed October 22, 2008. The reduction of 169 days commenced October 22, 2008; the date that the Notice of Appeal was filed, and ended April 8, 2009, the date of mailing an action under 35 U.S.C. 132. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 1189 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred eighty-nine (1,189)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,652,650 B2

DATED : January 26, 2010 **DRAFT**

INVENTOR(S) : Takagi 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 694 days

Delete the phrase "by 694 days" and insert – by 1,189 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

December 14, 2010

Patent No. : 7,565,552 B2
Appl. No. : 10/525,213
Inventor(s) : Oliver Feilen, et al.
Issued : July 21, 2009
Title : **METHOD FOR PROTECTING AGAINST MANIPULATION OF A CONTROLLER FOR AT LEAST ONE MOTOR VEHICLE COMPONENT AND CONTROLLER**
Docket No. : **8369.005.US0200**

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 mater, 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 1.117(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.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Novak Druce & Quigg LLP
300 New Jersey Ave, NW
Fifth Floor
Washington DC 20001

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVAK DRUCE + QUIGG LLP
300 NEW JERSEY AVE, NW
FIFTH FLOOR
WASHINGTON DC 20001

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,565,552 :
Issued: July 21, 2009 :
Application No. 10/525,213 : ON PETITION
Filed: October 12, 2005 :
Attorney Docket Number: 8369.005.US0200 :

This is a decision on the REQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKE UNDER 37 C.F.R. § 1.322 OR APPLICANT MISTAKE UNDER 37 C.F.R. § 1.323, filed May 25, 2011, to correct the assignee's name on the front of the Patent. The petition is treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner indicates that the name of the assignee was inadvertently left off of the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to correctly reflect the name of the assignee on the front 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.

---

[1] *See* Official Gazette of June 22, 2004

A request for a certification of correction was filed November 29, 2010 and was dismissed in a decision mailed December 14, 2010 since the request was not accompanied by a petition under 37 CFR 3.81 and the proper fees.

Office assignment records reflect that AUDI AG is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Application of
Margaret Sin Ka Wan
Application No. 10/525,259
Filed: February 22, 2005
Attorney Docket No. 13404

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 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 December 23, 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 at midnight March 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

The Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address, along with Statement under 37 CFR 3.73(b) filed with the petition has been accepted.

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

This application is being referred to Technology Center AU 1651 for appropriate action by the Examiner in the normal course of business on the reply received August 18, 2010.

Cheryl Gibson-Baylor
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
10/525,259	02/22/2005	Margaret Sin Ka Wan	13404

CONFIRMATION NO. 5000

POA ACCEPTANCE LETTER

26874
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

OC000000043846849

Date Mailed: 10/05/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/18/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/cpgibson baylor/

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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P.O. Box 1450
Alexandria, VA 22313-1450
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LAWRENCE A. AARONSON, P.C.
LAWRENCE A. AARONSON
12850 HIGHWAY 9
SUITE #600 PMB 338
ALPHARETTA, GA 30004

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of
Christopher Douglas Blair
Application No. 10/525,260
Filed: February 22, 2005
Attorney Docket No.: 762301-1560

ON PETITION

This is a decision in response to the petition, filed October 20, 2010, under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

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 September 17, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 17, 2010. A Notice of Abandonment was mailed on October 12, 2010.

Petitioners argue that the abandonment should be withdrawn since the period for paying the issue and publication fees should have been restarted by the Supplemental Notice of Allowability mailed August 30, 2010.

Petitioners' argument is not well taken. The period within which the issue fee must be paid was set in the Notice of Allowance mailed June 17, 2010 and, because this period is prescribed by statute, it cannot be extended. See 35 U.S.C. 151. The Supplemental Notice of Allowability did not operate to reset the period for paying the issue fee. In fact, the Supplemental Notice of Allowability mailed August 30, 2010 states:

> "-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (***or previously mailed***), a Notice of Allowance (PTOL 85) or other appropriate communication will be mailed in due course..." (Emphasis added)

The record clearly shows that the Notice of Allowance (PTOL 85) was mailed on June 17, 2010.

The only reference to a response period in the Supplemental Notice of Allowability is found in the paragraph stating that "Applicant has THREE MONTHS FROM THE 'MAILING DATE' of this communication ***to file a reply complying with the requirements noted below.*** Failure to timely comply will result in ABANDONMENT of this application..." (Emphases added)

In this case, no further response period was set to comply with any requirements because no requirements were "noted below" in the Supplemental Notice of Allowability of August 30, 2010. The application became abandoned by operation of law on September 18, 2010, since the issue and publication fees were not paid within the period set by statute. Consequently, the request to withdraw the holding of abandonment cannot be granted.

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).

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 $770 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 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]

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

LAWRENCE A. AARONSON, P.C.
LAWRENCE A. AARONSON
12850 HIGHWAY 9
SUITE #600 PMB 338
ALPHARETTA, GA 30004

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Application of Christopher Douglas Blair Application No. 10/525,260 Filed: February 22, 2005 Attorney Docket No.: 762301-1560	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 23, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before September 17, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 17, 2010. A Notice of Abandonment was mailed on October 12, 2010. On December 23, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of
Jerzy Kalisiak
Application No. 10/525,265
Filed: February 22, 2005
Attorney Docket No. 12411/3

PETITION DECISON

This is in response to the petitions under 37 CFR 1.47 and 37 CFR 1.183 filed February 3, 2011.

The petitions are **dismissed** as unnecessary.

The petitions were filed to allow the assignee to properly prosecute the application. Petitioner references MPEP 715.04, in regard to filing a petition under 37 CFR 1.183. This does not apply when the inventor is deceased as in this application. MPEP 715.04(I)(D) indicates assignee may make affidavits when it is not possible to produce the affidavit of the inventor. When the inventor is deceased § 715.04(I)(D) applies without the requirement for a petition.

Further, in regard to petitioner's request to properly prosecute the application, as the application is assigned, assignee may sign papers and prosecute the application as set forth in 37 CFR 1.33(b)(3).

The petition fees have been refunded to petitioner's deposit account.

The application is being forwarded to Technology Center Art Unit 3715 for consideration of the papers filed with the petition on February 3, 2011.

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SEP 14 2010

David A. Rose
CONLEY ROSE, P.C.
P.O. Box 3267
Houston, TX 77253-3267

In re Patent No.7,425,918
Issue date: September 16, 2008
Mark Shuster, et al.
Application No. 10/525,402
Filed: February 23, 2005
For: INTERPOSED JOINT SEALING LAYER METHOD OF FORMING A WELLBORE CASING

DECISION ON PETITION UNDER 37 CFR 1.97

This is in response to the petition filed on March 25, 2008 under 37 CFR 1.97 requesting the examiner to consider the prior art cited in the Information Disclosure Statement filed on December 5, 2006.

A review of the record reveals that applicant filed four (4) separate Supplemental Information Disclosure Statements on December 5, 2006. In one of the Supplemental Information Disclosure Statements petitioner alleges that three completed 1449 forms together with copies of the references were submitted. The file history shows only two 1449 forms included, but copies of the foreign references listed on the third 1449 form were scanned into the file. Petitioner also points out that the copy of the Supplemental Information Disclosure Statement (SIDS) scanned into PAIR shows that the first page of the SIDS was the first page of one of the other SIDS's filed on that same day. Petitioner also provides the Express tracking sheet from their SIDS submittal and the missing third 1449 form.

Due to the fact that copies of the foreign references listed on the missing 1449 form were provided, it appears that a scanning error may have occurred which caused the third 1449 form not to be made part of the official file.

The petition is thus **GRANTED**. The examiner will consider the third 1449 form provided by the petitioner for the SIDS filed on December 5, 2006.

Telephone inquiries should be directed to David Bagnell, Supervisory Patent Examiner, at (572) 272-6999.

David Talbott, Director
Patent Technology Center 3600
(571) 272-5150

djb/lm: 8/18/10
LM

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NOTARO, MICHALOS & ZACCARIA P.C.
100 DUTCH HILL ROAD
ORANGEBURG NY 10962

MAILED
JUL 13 2011
OFFICE OF PETITIONS

In re Patent No. 7,253,946	:	
Issued: August 7, 2007	:	
Application No. 10/525,422	:	ON PETITION
Filed: February 24, 2005	:	
Attorney Docket Number: H26-085 US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 21, 2011.

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

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

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

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

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CHARTER IP, LLC
P.O. BOX 64
THE PLAINS VA 20198

MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Application of :
Inocencio Higuera Ciapara et al. :
Application No. 10/525,435 : ON PETITION
Filed: February 22, 2005 :
Attorney Docket No: 8900/0005PUS1 :

This is a decision on the petition filed March 1, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed January 6, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned April 7, 2009. Accordingly, a Notice of Abandonment was mailed July 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

abandoned in favor of continuation application no.13/037,924 filed March 1, 2011, pursuant to the provisions of 37 CFR 1.53(b).

The petition fee in the amount of $810 has been applied.

This matter is being referred to Technology Center 1794 for processing of the continuation application filed March 1, 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

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 NATH LAW GROUP
112 South West Street
Alexandria VA 22314

MAILED

AUG 25 2010

OFFICE OF PETITIONS

In re Application of
Isabelle Poquet et al.
Application No. 10/525,449
Filed: November 9, 2005
Attorney Docket No. 1169-034

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2010, to revive the above-identified application.

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 application. However, in accordance with 37 CFR 1.34(a), the signature of William Beaumont appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Mr. Beaumont desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 2, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 3, 2010.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1633 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

cc: William Beaumont
Juneau Partners, PLLC
333 N. Fairfax St.
Suite 305
Alexandria, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : May 20, 2010

TO SPE OF : ART UNIT 2626
SUBJECT : Request for Certificate of Correction for Appl. No/10/525586 patent 7606713 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

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: The Request for Certificate of Correction makes only minor changes to the Specification, which are of an editorial nature. Most of these corrections are due to transcription mistakes by the Patent Office, but some are errors by Applicant in the original Specification.

/David R. Hudspeth/ — **SPE**

2626 — **Art Unit**

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OCT 01 2010

OFFICE OF PETITIONS

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

In re Patent No. 7,695,958	:	
Issue Date: April 13, 2010	:	
Application No.: 10/525,707	:	ON PETITION
Filed: October 7, 2005	:	
Attorney Docket No.: 8062-1026	:	

This is a decision on the petition filed August 10, 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) 272-3204. 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.

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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Yamawaki et al.	:	
Patent No. 7,488,841	:	ON APPLICATION FOR
Issue Date: 02/10/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/525,729	:	
Filed: 02/25/2005	:	
Attorney Docket Number:	:	
10993.0249	:	

This is in response to the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT" filed on April 8, 2009, which is treated as a petition under 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 565 days to 916 days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ten (910) 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 ten (910) days is **GRANTED to the extent indicated herein**

On February 10, 2009, the subject application issued as U.S. Patent No. 7,488,841, with a patent term adjustment of 565 days. On April 8, 2009, the subject request for reconsideration was filed.

Patentees assert entitlement to an additional period of adjustment for Office delay of 351 days pursuant to 37 CFR 1.705(b).

The "B" delay period is 348 days, not 351 days as calculated by patentee. 37 CFR 1.702(b) states that the period of adjustment

under 35 U.S.C. 154(b) is the period beginning three years after the date on which an 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. This application was filed pursuant to 35 U.S.C. 371(b), not under 35 U.S.C. 111(a).

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of February 28, 2005. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, February 28, 2005. Thus, the period of delay is 340 days, counting the number of days beginning on February 29, 2008, the day after the date three years after the national stage commenced, and ending on February 10, 2009, the date the patent issued.

Further, 37 CFR 1.703(a)(1) states that the period of adjustment for Office delay is the number of days, if any, in 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) or fulfilled the requirements of 35 U.S.C. 371 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 fourteen month period under § 1.703(a)(1) is calculated from the date of the fulfillment of the requirements of 35 U.S.C. 371.

The priority date in this application is August 27, 2002. Applicants did not file an express request under 35 U.S.C. 371(f). Accordingly, the date which is 30 months from the priority date is February 27, 2005. As February 27, 2005, fell on a Sunday, the commencement date is shifted to Monday, February 28, 2005. *See* PCT Rule 80.5. Additionally, as applicants completed all 35 U.S.C. 371 requirements on filing the national stage prior to commencement, the completion date is also shifted to February 28, 2005.

Accordingly, the period of adjustment under 37 CFR 1.702(a)(1) is the period beginning on April 29, 2006, the day after the date fourteen months after the date of completion of all requirements under 35 U.S.C. 371. An office action was mailed on November 16, 2007, fourteen months and 567 days after the date after the date after the application completed the

requirements of 35 U.S.C. 371. The period of adjustment under 37 CFR 1.702(a)(1) is therefore 567 days rather than 570 days. The 570 day period of adjustment for Office delay will be removed and a 567 day period will be entered.

The patent term adjustment at the time of issuance of the patent is 910 days (567 days of Office delay + 348 days of three years delay - 5 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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 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 nine hundred ten **(910)** days.

Telephone inquiries regarding 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 : 7,488,841 B2

DATED : **Feb. 10, 2009** **DRAFT**

INVENTOR(S) : Yamawaki 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 565 days.

Delete the phrase "by 565 days" and insert – by 910 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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In re Patent No. 7274509
Issue Date: September 25,2007
Application No. 10525801
Filed: February 25,2005
Attorney Docket No. CHOI3028/JEK

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

This is a decision on the electronic petition, filed October 17,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 17,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7274509	2007-09-25	10525801	2005-02-25	CHOI3028

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	/Thomas J. Moore, Reg.# 28974/	Date (YYYY-MM-DD)	2011-10-17
Name	Thomas J. Moore	Registration Number	28974

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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Alexandria, VA 22313-1450
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MAILED
AUG 02 2011
OFFICE OF PETITIONS

MICHAEL HETHERINGTON
WOODSIDE IP LAW GROUP
P.O. BOX 61047
PALO ALTO, CA 94306

In re Application of
David L. Bender
Application No. 10/525,834
Filed: February 25, 2005
Attorney Docket No. SOLAICX OO4

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 July 11, 2011.

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 Michael Hetherington does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further, a review of the record shows that while petitioner submit a power of attorney upon filing, the power was should not have been accepted as the request was signed by the assignee and no statement under 37 CFR 3.73(b) was received.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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: MEMC ELECTRONIC MATERIALS, INC.
SUCCESSOR TO SOLAICX, INC.
MR. RICHARD SCHITH,
ARMSTRONG TEASDALE
7700 FORSYTHI BLBD, SUITE 1800
ST LOIUS, MO 63105

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/11

TO SPE OF : ART UNIT: 1765 Attn: SEIDLECK JAMES (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/525895 Patent No.: 7625955

CofC Mailroom date: 11/12/10

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

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

/James J. Seidleck/

SPE 1765 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 27 2011

OFFICE OF PETITIONS

BROWDY AND NEIMARK PLLC
1625 K STREET NW
SUITE 1100
WASHINGTON DC 20006

In re Patent No. 7,407,157	:	
Issue Date: August 5, 2008	:	
Application No. 10/526,188	:	DECISION ON PETITION
Filed: March 2, 2005	:	
Attorney Docket No. HANSSON4	:	

This is a decision on the petition under 37 CFR 3.81(b), filed June 10, 2011.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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: NAKA0102PUSA	Patent Number: 7661153
Filing Date (or 371(b) or (f) Date): Mar-02-2005	Issue Date: Feb-16-2010
First Named Inventor: ASADA, KYOJI	
Title: FLUSH TOILET	

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 /John E Nemazi/	Date 13-Aug-2010
Name (Print/Typed) John E. Nemazi	Registration Number 30,876

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

☐ *Total of _____ forms are submitted.

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 09/08/2010

Applicant	: Kenichi Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7661153	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/526,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **211** 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 :11-29-2011_____

TO SPE OF : ART UNIT 3754____

SUBJECT : Request for Certificate of Correction for. Patent No: 8042714

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 (Co f C
Randolph Square – 9D10-

EvaJames

What Fig. should be printed on the title page, 1 or 2

571-272-3422

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.

Figure 1 should be printed on the title page

Kevin P. Shaver — SPE

3754 — Art Unit

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

JAN 03 2011

OFFICE OF PETITIONS

NOTICE

In re application of :
Stein et al :
Application No. 10/526,444 :
Filed: March 1, 2005 :
Attorney Docket No. 4941-P03582USO :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on August 31, 2010.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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FAY SHARPE LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Don W. Cochran, et al.	:	
Application No. 10/526,799	:	ON PETITION
Filed: December 23, 2005	:	
Attorney Docket No. PSSZ 200072US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 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) or a proper request for continued examination. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 8, 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 August 9, 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 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on March 28, 2011 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at

issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 2884 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/2010

TO SPE OF : ART UNIT 1716 Hassanzadeh, Parviz (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/526800 Patent No.: 7694651

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-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: Approved all changes.

/Parviz Hassanzadeh/ — SPE

1716 — Art Unit

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OFFICE OF PETITIONS

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

In re Application of	:	
Chenghui LUO	:	
Application No. 10/526,843	:	DECISION GRANTING PETITION
Filed: March 3, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SCHO0622**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 28, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 30, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2435 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

[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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Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN LLP
ATTENTION: DOCKETING DEPARTMENT
P.O BOX 10500
MCLEAN, VA 22102

MAILED

AUG 16 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,763,270	:	
Issue Date: July 27, 2010	:	
Application No. 10/527,047	:	
Filed: November 15, 2005	:	
Attorney Docket No. 009848-0314856	:	

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

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ROBERT BEDGOOD
PILLSBURY WINTHROP SHAW PITTMANN LLP
12255 EL CAMINO REAL, SUITE 300
SAN DIEGO, CA 92130

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of	:	
Jill MacDonald Boyce, et al.	:	
Application No. 10/527,125	:	DECISION ON PETITION
Filed: March 8, 2005	:	
Attorney Docket No. PU020419	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 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 July 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010. The Notice of Abandonment was mailed August 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 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.

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

UNITED STATES DEPARTMENT OF COMMERCE
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Patent Capital Group
6119 McCommas Blvd
Dallas, TX 75214

Mail Date: 08/03/2010

Applicant	: Majid Shahbazi	: DECISION ON REQUEST FOR
Patent Number	: 7669237	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/527,235	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Si Han Kim :
Application No. 10/527,272 : ON PETITION
Filed: June 30, 2009 :
Attorney Docket No: **0344.1004** :

This is a decision on the petition filed February 2, 2012 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 9, 2011 for failure to timely reply to the non-Final Office Action mailed June 8, 2011 within the shortened statutory period of three months set for reply. Accordingly, a Notice of Abandonment was mailed December 29, 2011.

This matter is being referred to Technology Center 2629 for appropriate action on the amendment filed February 2, 2012.

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

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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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OCT 15 2010

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Breitfuss et al.	:	
Application No. 10/527,287	:	
Filed: March 8, 2005	:	
Attorney Docket No. AT02 0058US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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 concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2612 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: WILSON & HAM
1811 SANTA RITA ROAD, SUITE 130
PLEASANTON, CA 94566

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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ELIOPOULOS INTELLECTUAL PROPERTY LAW
2600 SKYMARK AVENUE, SUITE 11-101
MISSISSAUGA ON L4W 5B2 CA CANADA

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Ram et al.	:	
Application No. 10/527,400	:	ON PETITION
Filed: March 11, 2005	:	
Title: Method of Buying or Selling Items and a User Interface to Facilitate the Same	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 11, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 21, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2008. A Notice of Abandonment was mailed on November 25, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(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.

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 Commissioner may require additional information.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition does not lack any of the above items. 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.

The instant petition was only signed by one of the two listed inventors of the application. A renewed petition, signed by both Pranil Ram and Crispin M. Almodover, should be submitted.

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.

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: PRANIL RAM
313-6390 WILLINGDON AVENUE
BURNABY, BC CANADA V5H 2V5

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MR. PRANIL RAM
C/O APT. 313
6390 WILLINGDON AVE
BURNABY BC V5H2V-5 CA CANADA

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Ram et al.	:	
Application No. 10/527,400	:	ON PETITION
Filed: March 11, 2005	:	
Title: Method of Buying or Selling Items and a User Interface to Facilitate the Same	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

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

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/880,079.

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)
7,201,435	2007-04-10	10/527,442	2005-03-10	71659

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 james mcglew/	Date (YYYY-MM-DD)	2011-06-08
Name	John James McGlew	Registration Number	31903

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.	7201435	:
Issue Date:	April 10,2007	
Application No.	10527442	:DECISION GRANTING PETITION
Filed:	March 10,2005	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	71659	:

This is a decision on the electronic petition, filed June 8,2011 ,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 8,2011 .
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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P.O. BOX 980
VALLEY FORGE PA 19482

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OFFICE OF PETITIONS

In re Application of :
Tessitore et al. :
Application No. 10/527,622 : ON PETITION
Filed: March 11, 2005 :
Attorney Docket No. P12250-US-PCT :
For: PARKING BRAKE OF A DRUM BRAKE

This is a decision on the petition, filed January 6, 2012, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the November 19, 2007 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on February 20, 2008. A Notice of Abandonment was mailed on July 30, 2008.

Applicants have submitted an amendment in reply to the November 19, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 19, 2007 non-final Office action, and the $1,860.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3657 for consideration of the amendment filed on January 6, 2012.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Kathleen Tyrrell
Licata & Tyrrell
66 East Main Street
Marlton NJ 08053

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Patent No. 7,785,622	: DECISION ON
Ito et al.	: APPLICATION FOR PATENT
Application No. 10/527710	: TERM ADJUSTMENT and
Issue Date: 08/31/2010	: NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 04/22/2005	: CERTIFICATE OF CORRECTION
Attorney Docket No. KUZ-0022	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R.1.705(d)," filed September 17, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 694 days to at least an additional 42 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 31, 2010, the above-identified application matured into US Patent No. 7,785,622 with a patent term adjustment of 694 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment pursuant to 35 U.S.C. § 154(b)(1)(A)(i – iv). Patentees aver that the patent term adjustment pursuant to 35 U.S.C. § 154(b)(1)(A)(i – iv) was incorrectly based upon the date of April 22, 2005, rather than the date of March 11, 2005, on which the national stage commenced under 35 U.S.C. § 371(b) or (f). In support of this assertion, Patentees cite to 1347 OG 50.

Initially it is noted that 1347 OG 50 is a "Notice Concerning Calculation of the Patent Term Adjustment Under 35 U.S.C. § 154(b)(1)(**B**) involving International Applications Entering the National Stage Pursuant to 35 U.S.C. § 371." (Emphasis added). The applicable statute, 35 U.S.C. § 154(b)(1)(**A**), provides:

> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —

> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —
> (I) the date on which an application was filed under section 111(a) of this title; or
> (II) the date on which an international application fulfilled the requirements of section 371 of this title

(Emphasis added).

A review of the application file history confirms that the application fulfilled the requirements of 35 U.S.C. § 371 on April 22, 2005. Accordingly, the Office properly used April 22, 2005 as the date in calculating the adjustment pursuant to 35 U.S.C. § 154(b)(1)(A).

In view thereof, no adjustment to the patent term will be made.

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Intervet/Schering-Plough
Animal Health
Patent Dept. K-6-1, 1990
2000 Galloping Hill Road
Kenilworth NJ 07033-0530

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SEP 28 2010

OFFICE OF PETITIONS

In re Application of :
Baxendale et al. :
Application No. 10/527,767 :
Filed: September 12, 2005 :
Attorney Docket No. I-2002.016 :
US :
Title: CHICKEN ASTROVIRUS TYPE :
2 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed February 23, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred sixty-five (565) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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 Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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Intervet/Schering-Plough Animal Health
Patent Dept. K-6-1, 1990
2000 Galloping Hill Road
Kenilworth NJ 07033-0530

In re Patent No. 7,824,689	:
Baxendale et al.	: DECISION ON REQUEST FOR
Issue Date: November 2, 2010	: RECONSIDERATION OF
Application No. 10/527,767	: PATENT TERM ADJUSTMENT
Filed: September 12, 2005	:
Attorney Docket No. 1-2002.016	:
US	:
Title: Chicken Astrovirus Type	:
2	:

This is a decision on the petition filed under 37 CFR 1.705(d) on December 15, 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 forty-one (841) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 19-0365. No additional fees are required.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of March 18, 2005, not March 11, 2005. Therefore, the over three year patent term adjustment is calculated from the day after March 18, 2008.

Patentee's dispute the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive. 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). 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 view thereof, no adjustment to the patent term will be made.

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) 272-3215.

Charlema Grant

Charlema Grant
Attorney
Office of Petitions

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P.O. BOX 726
HAMPDEN ME 04444-0726

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NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Matthias Aikele et al.	:	
Application No. 10/527,789	:	DECISION ON PETITION
Filed: August 9, 2005	:	
Attorney Docket No. **4856 / PCT**	:	

This is a decision on the petition under 37 CFR 1.182, filed, November 4, 2010, to change the name of inventor "Bernhard Hartmann" to – Bernhard Schmid --.

The petition is **GRANTED**.

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

Any questions concerning this matter may be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1713 for the normal course of business.

JoAnne Burke
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
10/527,789	08/09/2005	1713	1330	4856 / PCT	6	1

CONFIRMATION NO. 9555

CORRECTED FILING RECEIPT

21553
FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

OC000000044559607

Date Mailed: 11/18/2010

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)

Matthias Aikele, Muenchen, GERMANY;
Albert Engelhardt, Muenchen, GERMANY;
Marcus Frey, Bernau, GERMANY;
Bernhard Schmid, Friedberg, GERMANY;
Helmut Seidel, Starnberg, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 021553

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DE03/03049 09/12/2003

Foreign Applications

GERMANY 10242661.9 09/13/2002

If Required, Foreign Filing License Granted: 09/27/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/527,789**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD FOR PRODUCING INSULATION STRUCTURES

Preliminary Class

438

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

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

MAILED
JUL 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,481,581	:	
Issued: January 27, 2009	:	
Application No. 10/527,794	:	ON PETITION
Filed: March 15, 2005	:	
Attorney Docket No. 29302.0047	:	

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

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

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

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

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

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

MAILED
DEC 09 2010
OFFICE OF PETITIONS

In re Application of	:	
GUPTA et al.	:	
Application No. 10/527,844	:	ON APPLICATION FOR
Filed: 01/09/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. V0005.70100US00	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d), filed November 24, 2010, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 177 days, not 0 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).

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Marc 27, 2012

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/527938, Patent No.: 7808335

Co f C mailroom date: 01-05-11

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

Note: _____

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

Thank You For Your Assistance

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

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

Comments: _____

SPE — **Art Unit** 2817

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)
7068910	2006-06-27	10527952	2005-03-15	NL020869US

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 A. Epstein/	Date (YYYY-MM-DD)	2011-09-02
Name	Michael A. Epstein	Registration Number	64610

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. 7068910
Issue Date: June 27,2006
Application No. 10527952
Filed: March 15,2005
Attorney Docket No. NL02 0869 US

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

This is a decision on the electronic petition, filed September 2,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 2,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POLLACK, P.C.
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK NY 10017

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Ravi I. Sharma	:	FOR RECONSIDERATION OF
Application No. 10/528164	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/23/2008	:	AND
Attorney Docket Number:	:	NOTICE OF INTENT TO ISSUE
1038.1001	:	CERTIFICATE OF CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705(B)," filed September 13, 2010. Applicants request reconsideration of the patent term adjustment to at least nine hundred ninety-eight (998) days. Applicant requests this recalculation (1) in connection with the abandonment of the application; (2) in connection with the filing and replies to a petition to withdraw the holding of abandonment; (3) in connection with a delay in the mailing of a Notice of Abandonment; (4) in connection with the failure of the Office to timely notify applicant of non-receipt of the application filing fee; (5) in connection with misinformation provided to applicant, and (6) in connection with unreasonably long delays upon revival of the application in connection with the mailing of a Notice to File Missing Requirements, and in connection with assigning the application to an examiner, and forwarding the application to an examiner, and in issuing a first Office action. The request is properly treated under 37 CFR 1.705(b).

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

BACKGROUND

On May 28, 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 zero (0) days.

On September 13, 2010, Applicants timely submitted the present request for reconsideration of patent term adjustment[1]. Applicants do not dispute the reduction to date of 39 days pursuant to 37 CFR 1.704(b).

[1] Office records show that the Issue Fee payment was received in the Office on September 13, 2010.

Applicant files the present petition and requests a just and equitable accounting, in terms of patent term adjustment, based upon (1) a three hundred and eighteen day delay from applicant's submission of the application on March 14, 2005 to January 26, 2006, the actual date of abandonment; (2) a seventy-four day delay from abandonment of the application on January 26, 2006 to the mailing of a Notice of Abandonment on April 10, 2006; (3) a two-hundred fifty-eight day delay from revival of the application on August 23, 2007, to the mailing of a Notice to File Missing Requirements on May 8, 2008; (4) a six hundred and six day delay from applicant's filing of a petition to withdraw the holding of abandonment on November 19, 2006 to July 18, 2008, the date the Office of Patent Cooperation Treaty ("PCT") putatively withdrew a previous Withdrawal of Notice of Abandonment dated April 10, 2006, and/or (5) a seven hundred forty-six day delay from revival of the application on August 23, 2007 to the mailing of a Restriction Requirement on September 8, 2009.

OPINION

Applicants' arguments have been carefully considered. Applicant is advised that under 35 U.S.C. § 154(b)(1), an applicant is entitled (subject to certain conditions and limitations) to a patent term adjustment for the following reasons: (1) If the USPTO fails to take certain actions <u>during the examination and issue process</u> within specified time frames (35 U.S.C. 154(b)(1)(A)), which are known as "A" delays; (2) If the USPTO fails to issue a patent within three (3) years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)), which are known as "B" delays, and (3) for delays due to interference, secrecy order, or successful appellate review (35 U.S.C. 154(b)(1)(C)), which are known as "C" delays. (Emphasis added).

37 CFR § 1.705(b), provides as follows:

> Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e); and
> (2) A statement of the facts involved, specifying:
> (i) The correct patent term adjustment <u>and the basis or bases under § 1.702 for the adjustment</u>;
> (ii) The relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled;
> (iii) Whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer; and
> (iv)

(A) Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704; or
(B) That there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.
(c) Any application for patent term adjustment under this section that requests reinstatement of all or part of the period of adjustment reduced pursuant to § 1.704(b) for failing to reply to a rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must also be accompanied by:
(1) The fee set forth in § 1.18(f); and
(2) A showing to the satisfaction of the Director that, in spite of all due care, the applicant was unable to reply to the rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request.
The Office shall not grant any request for reinstatement for more than three additional months for each reply beyond three months from the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request

(Emphasis added).

The present petition is properly filed to request for reconsideration of the patent term adjustment indicated in the notice of allowance; however, the present petition fails to provide the basis or bases under § 1.702 for the requested adjustment.

The applicable Rule, 37 CFR 1.702, Grounds for adjustment of patent term <u>due to examination delay</u> under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000), provides for an adjustment of the patent term as follows:

(a) Failure to take certain actions within specified time frames.
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:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;
(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; or
(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

A review of the present petition reveals that the petition does not request an adjustment of the patent term based upon 37 CFR 1.702. While it is noted that petitioner avers that there was a seven hundred forty-six day delay from revival of the application on August 23, 2007 to the mailing of a Restriction Requirement on September 8, 2009, as stated supra in 37 CFR 1.702(a)(1), the Office has 14 months from the date the application fulfilled the requirements of 35 U.S.C. 371, within which to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. Here, applicant fulfilled the requirements of 35 U.S.C. 371 on July 23, 2008. The Office mailed a Restriction Requirement on September 23, 2009, within 14 months of applicant fulfilling the requirements of 35 U.S.C. 371 on July 23, 2008.

Applicant's requests for adjustment of the patent term of three hundred and eighteen days, from applicant's submission of the application on March 14, 2005 to January 26, 2006, the actual date of abandonment; (2) seventy-four days, from abandonment of the application on January 26, 2006 to the mailing of a Notice of Abandonment on April 10, 2006; (3) two-hundred fifty-eight days, from revival of the application on August 23, 2007, to the mailing of a Notice to File Missing Requirements on May 8, 2008, and (4) six hundred and six days, from applicant's filing of a petition to withdraw the holding of abandonment on November 19, 2006 to July 18, 2008, the date the Office of Patent Cooperation Treaty ("PCT") putatively withdrew a previous Withdrawal of Notice of Abandonment dated April 10, 2006, are not properly addressed in a petition under 37 CFR 1.705(b).

Applicant is further advised that a petition under 37 CFR 1.705(d) is filed to request reconsideration of the patent term adjustment indicated in the patent, and it is this petition that appropriately addresses the Office's failure to issue a patent within 3 years[2]. However, 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

[2] The period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(b) or (f)). See MPEP § 2730. The commencement date is the date 30 months from the earliest priority date claimed in the international application. (The commencement date may be earlier than 30 months where (1) an applicant expressly requested early commencement, and completed all requirements under 35 U.S.C. 371(c), or (2) Demand was timely filed requesting a change in commencement from 20 to 30 months).

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[3].

Finally, a review of the application file reveals that the Office neglected to assess a reduction in connection with the abandonment and revival of the present application pursuant to 37 CFR §§ 1.704(c)(3) and (4), to the extent that the periods are not overlapping.

Pursuant to 37 CFR 1.704(c)(3), the period of delay begins on the date of abandonment – here, the application became abandoned for failing to pay the Basic National Fee by the 30 month date, January 25, 2006, and the date of abandonment is January 26, 2006, and ends <u>on the earlier of</u> (i) the date of mailing of the decision reviving the application (i.e. April 23, 2007) or (ii) the date that is four months after the date the <u>grantable</u> petition to revive the application was filed (i.e. August 26, 2007), or 452 days[4]. (Emphasis supplied).

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance remains zero (0) days (adjustments totaling zero (0) days less reductions totaling 491 days (452 days + 39 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).

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[3] 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.

[4] Pursuant to 37 CFR 1.704(c)(4), a reduction is properly assessed for the failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment, 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 two months from the mailing date of a notice of abandonment, June 11, 2006, and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed, November 20, 2006, or 224 days. However, the reduction pursuant to 37 CFR 1.704(c)(4) overlaps with the period of reduction pursuant to 37 CFR 1.704(c)(3).

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. 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

Patent Term Adjustments

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

Application Number*: 10528164 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10528164

Application Filing Date	07/23/2008	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	0
A Delays	0	PTO Manual Adjustment	-452
B Delays	0	Applicant Delay (APPL)	39
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
121	03/11/2011		P028	Adjustment of PTA Calculation by PTO		452	0
103	05/28/2010		MN/=.	Mail Notice of Allowance			0
102	05/27/2010		IREV	Issue Revision Completed			0
101	05/27/2010		N/=.	Notice of Allowance Data Verification Completed			0
100	05/27/2010		DVER	Document Verification			0
99	05/10/2010		EX.A	Examiner's Amendment Communication			0
98	05/10/2010		CNTA	Allowability Notice			0
95	04/24/2010		FWDX	Date Forwarded to Examiner			0
94	04/09/2010	03/01/2010	A...	Response after Non-Final Action		39	92
93	04/09/2010		XT/G	Request for Extension of Time - Granted			0
92	12/01/2009		MCTNF	Mail Non-Final Rejection			0
91	12/01/2009		CTNF	Non-Final Rejection			0
82	10/30/2009		FWDX	Date Forwarded to Examiner			0
81	10/22/2009		ELC.	Response to Election / Restriction Filed			0
80	10/22/2009		XT/G	Request for Extension of Time - Granted			0
79	09/08/2009		MCTRS	Mail Restriction Requirement			0
78	09/03/2009		CTRS.	Restriction/Election Requirement			0
75	08/26/2009		DOCK	Case Docketed to Examiner in GAU			0
74	06/01/2009		DOCK	Case Docketed to Examiner in GAU			0
69	02/26/2009		PG-ISSUE	PG-Pub Issue Notification			0
90	02/12/2009		IDSC	Information Disclosure Statement considered			0
73	02/12/2009		RCAP	Reference capture on IDS			0
72	02/12/2009		M844	Information Disclosure Statement (IDS) Filed			0
68	02/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
70	01/27/2009		A.PE	Preliminary Amendment			0
66	01/21/2009		MNPRL	Mail Non-Compliant Preliminary Amendment			0
65	01/21/2009		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
64	01/21/2009		NPRL	Non-Compliant Preliminary Amendment			0
62	01/21/2009		DOCK	Case Docketed to Examiner in GAU			0
89	01/16/2009		IDSC	Information Disclosure Statement considered			0
84	01/16/2009		RCAP	Reference capture on IDS			0
83	01/16/2009		M844	Information Disclosure Statement (IDS) Filed			0
67	01/16/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
52	12/05/2008		OIPE	Application Dispatched from OIPE			0
50	11/18/2008		PGPC	Sent to Classification Contractor			0
49	11/18/2008		FLRCPT.U	Filing Receipt - Updated			0
48	11/18/2008		M903	Notice of DO/EO Acceptance Mailed			0
61	10/27/2008		A.PE	Preliminary Amendment			0
47	10/27/2008		ADDFLFEE	Additional Application Filing Fees			0
45	10/27/2008		PREAMND	Preliminary Amendments			0
44	09/30/2008		FLRCPT.O	Filing Receipt			0
43	09/30/2008		M916	Notice of DO/EO Defective Response Mailed.			0
35	09/29/2008		CPYIPER	Copy of the International Preliminary Examination Report			0
33	07/28/2008		MPTDI-1	Mail-Petition Decision - Dismissed			0
32	07/28/2008		PTDI-1	Petition Decision - Dismissed			0
60	07/23/2008		A.PE	Preliminary Amendment			0
51	07/23/2008		371CDMP	371 Completion Date			0
42	07/23/2008		ADDFLFEE	Additional Application Filing Fees			0
40	07/23/2008		SES	Small Entity Statement (37 CFR 1.27)			0
34	07/23/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,229	03/18/2005	Daisuke Itoh	2005_0470A	6230

513 7590 09/20/2011
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER
WOOD, ELLEN S

ART UNIT	PAPER NUMBER
1782	

NOTIFICATION DATE	DELIVERY MODE
09/20/2011	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):

ddalecki@wenderoth.com
eoa@wenderoth.com

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SEP 20 2011

Mailed :
In re Application of
Itoh et al.
Serial No. 10/528,229
Filed: March 18, 2005
For: STRONGLY STRETCHED ALPHATIC POLYESTER MOLDINGS

DECISION ON PETITION

This is a decision on Appellants' Petition under 37 CFR 1.181 filed June 3, 2011 requesting that a ground of rejection set forth in the answer be designated as a new ground of rejection. A Final Office Action was mailed on May 17, 2010. An Appeal Brief was filed on January 13, 2011. On April 5, 2011, an Examiner's Answer was mailed.

Appellants assert that on pages 9 and 10 of the Examiner's Answer, the Examiner discusses Appellants' data in the specification, which compares stretching ratios and temperatures for stretching the files. Appellants' position is that the Examiner has taken a new position regarding this data which has not been presented. Specifically, the Examiner states " *The examiner does not believe that the comparative examples shown in tables 1 and 2 provide enough data for one to determine that the stretching ratios and temperatures provide the unexpected result that the crystal melting point would increase by at least 3°C than that of the unstretched product when the polyester is stretched at 45-60°C at a stretching ration exceeding 3x3 times. The data provides 3 stretching ranges, 4.5x4.5, 4.0x4.0 and 3.0x3.0. The claim states that the stretching ratio exceeds 3x3 times. This range encompasses a stretching ratio of anywhere between 3.1x3.1 to 100x100 times. The appellant has failed to encompass the smallest end of the range and the highest end of the range in terms of the stretching ratio*".

Appellants assert that although they have relied upon the examples in the specification since December 17, 2007, and with respect to the present claims since February 12, 2010, the Examiner has never before taken the position that the data is not commensurate in scope with the claims.

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See *In re Kronig*, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the

10/528,229

same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. *Id.* at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

A review of the prior office actions by the Examiner fails to disclose the position the Examiner has now taken in the Answer. The record shows that the Appellants' arguments set forth in the Brief are consistent with the previous arguments presented during the prosecution of the application. Appellants have relied upon the examples and comparative examples set forth in the specification in asserting the patentability of the present claims and have referred to this data since the claims were amended to recite the stretching temperature and ratio. The petition will be granted so that any newly raised issues can be so identified by the examiner.

DECISION

The petition is **GRANTED**.

The Examiner is required to send a corrected Examiner's Answer that identifies the rejection as a new ground of rejection and includes the approval of the TC Director. The appellant may then file either a request that prosecution be reopened by filing a reply under 37 CFR 1.111, or a request that the appeal be maintained by filing a reply brief or resubmitting the previously-filed reply brief, within two months from the mailing of the corrected answer.

Karen M. Young

Karen M. Young, Director
Technology Center 1700
Chemical and Materials Engineering

wk

Amy E. Schmid
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Washington DC 20005-1503

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/30/2010

Applicant	: Takeshi Obata	: DECISION ON REQUEST FOR
Patent Number	: 7655343	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/528,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1356** 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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OFFICE OF PETITIONS

Emery L Tracy
P O Box 1518
Boulder CO 80306

In re Application of
Agarwal, et al.
Application No. 10/528,370
Filed: June 29, 2006
Attorney Docket No. W002.PAT-22
For: SYSTEM AND METHOD FOR THE MANUFACTURE OF HYDROGEN CYANIDE AND ACRYLONITRILE WITH SIMULTANEOUS RECOVERY OF HYDROGEN

ON PETITION

This is a decision on the petition, filed November 5, 2010 (certificate of mailing date November 2, 2010), under 37 CFR 1.47(a). The petition will be treated as a petition under CFR 1.183, requesting waiver of 37 CFR 1.67, which requires an inventor to execute a supplemental declaration to correct ambiguities/errors with respect to his/her information in the original declaration.[1]

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.67" and may include an oath or declaration executed by the legal representative of the deceased inventor. **Failure to respond will result in abandonment of the application.**

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated in much the same way a Rule 47 petition is. Therefore, a grantable petition requires:

(1) a petition including proof of the pertinent facts establishing that the legal representative of the deceased inventor refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or declaration executed by the available joint inventor(s),

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating a legal representative of the deceased inventor's refusal or unavailability to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. *See* MPEP 603.

(3) a petition fee, and
(4) the last known address of the legal representative of the deceased inventor.

This petition lacks item (1).

As to item (1), petitioners have failed to establish that the legal representative of the deceased inventor has constructively refused to sign the declaration. When it is concluded that a legal representative of a deceased inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. **If there is documentary evidence to support facts alleged in the petition or in any statement of facts,such evidence should be submitted.**

The statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. MPEPE 409.03(d)

Petitioners assert, "On several occasions since the receipt of the Office Action, attempts have been made to reach Mrs. Agarwal by mail at her last known mailing address, 3313 Reynolds, Laramie, Wyoming 82702. To date, no responses or replies have been received."

The showing in the present petition lacks any documentary evidence to support facts alleged in the petition. The Office would like to see copies of the letters to the legal representative of the deceased inventor. Please submit (1) copies of the letters presenting the legal representative of the deceased inventor with the application and papers for her signature and (2) copies of the letters reminding her of the necessity to return an executed declaration. Please confirm that the mailings have not been returned to sender.

Regarding fees, petitioner submitted $200.00. The current Rule 183 petition fee is $400.00. Accordingly, deposit account no. 50-2084 will be charged the $200.00 balance 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 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 should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Emery L Tracy
P O Box 1518
Boulder CO 80306

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of :
Agarwal, et al. :
Application No. 10/528,370 : ON PETITION
Filed: June 29, 2006 :
Attorney Docket No. W002.PAT-22 :
For: SYSTEM AND METHOD FOR THE MANUFACTURE OF HYDROGEN CYANIDE AND ACRYLONITRILE WITH SIMULTANEOUS RECOVERY OF HYDROGEN

Papers filed on March 7, 2011 in reply to a decision on a petition under CFR 1.183 requesting waiver of 37 CFR 1.67, mailed February 15, 2011, included a declaration in compliance with 37 CFR 1.63, signed by Rekha Agarwal, the previously non-signing executor of the deceased inventor, Pradeep K. Agarwal.

In view of the joinder of the executor, the petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **DISMISSED** as moot.

After the mailing of this decision, the application will be forwarded to Technology Center G.A.U. 1759 for the examiner of record's consideration of the amendment filed on November 5, 2010.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,458	10/06/2005	Arthur Chen	003D.0056.U1(US)	4928

87120 7590 07/11/2011
Harrington & Smith
4 Research Drive, Suite 202
Shelton, CT 06484

EXAMINER
ST CYR, DANIEL

ART UNIT	PAPER NUMBER
2876	

MAIL DATE	DELIVERY MODE
07/11/2011	PAPER

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

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

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HARRINGTON & SMITH
ATTORNEYS AT LAW, LLC
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

In re Application of Chen et al	:	
Appl. No.: 10/528,458	:	**PETITION TO WITHDRAW**
Filed: October 06, 2005	:	**THE EX PARTE QUAYLE,**
For: ANTI-MISINSERTION MECHANISM OF CARD	:	**THE ADVISORY ACTION**
CONNECTOR	:	**AND THE NOTICE OF**
	:	**NON-COMPLIANT**
	:	**AMENDMENT**
	:	*37 CFR 1.181(c)*

This decision on the petition filed 3/12/2010, requesting the withdraw of the Ex Parte Quayle, the Advisory Action and the Notice of Non-Compliant Amendment mailed 7/20/2009, 3/8/2010 and 3/8/2010, respectively.

The petition is **GRANTED**.

A review of the record shows that the grounds of rejection in the Ex Parte Quayle Office action mailed July 20, 2009; the Advisory Action mailed March 08, 2010; and the Notice of Non-Compliant Amendment mailed March 08, 2010 was prematurely made by the Office. Accordingly, a supplemental Office action and/or Notice of Allowance will be mailed in lieu of the Petition under *37 CFR 1.181(c)*.

Inquiries concerning this decision should be directed to Michael G. Lee, Supervisory Patent Examiner, at (571) 272-2398.

Joseph Thomas, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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WAYNE PA 19087-3318

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OCT 12 2011

OFFICE OF PETITIONS

In re Application of :
Ian E. Kibblewhite et al. :
Application No. 10/528,515 : ON PETITION
Filed: October 26, 2005 :
Attorney Docket No. LOAD2 US :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed September 23, 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of
Sylvain Dumet et al.
Application No. 10/528,598 : ON PETITION
Filed: October 28, 2005 :
Attorney Docket No. PF020122 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 12, 2010 for failure to timely file a reply to the Final Office action mailed May 11, 2010. Accordingly, a Notice of Abandonment was mailed November 19, 2010.

The present petition under 37 CFR 1.137(b) is accompanied by a Notice of Appeal and an amendment after final rejection.

The Examiner has determined that the amendment filed with the present petition does not place the case in condition for allowance. Therefore, the Notice of Appeal filed with the petition will be entered. The Notice of Appeal fee has been applied.

The Notice of Appeal filed March 17, 2011, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

The matter is being referred to Technology Center 2476.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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 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.

(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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SILICON VALLEY PATENT GROUP LLP
18805 COX AVENUE
SUITE 220
SARATOGA CA 95070

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JAN 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/528,721	:	DECISION ON PETITION
Filed: March 22, 2005	:	
Attorney Docket No. 188232000300	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 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 January 19, 2010, as required by the Notice of Allowance and Fee(s) Due mailed October 16, 2009. Accordingly, the date of abandonment of this application is January 20, 2010. A Notice of Abandonment was mailed February 3, 2010.

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

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 given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Thomas Chan
2880 Zanker Road, Suite 109
San Jose, CA 95134

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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HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10017

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Claas Junghans et al. :
Application No. 10/528,748 : ON PETITION
Filed: March 13, 2006 :
Attorney Docket No. JUNGHANS :

This is a decision on the petition filed August 31, 2010 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 for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of January 4, 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). Accordingly, the date of abandonment of this application is April 5, 2010. A Notice of Abandonment was mailed on September 9, 2010.

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

As to item 3, the statement of unintentional delay is presently not acceptable because the registration number of attorney Ursula B. Day differs from the number that is of record in this application.

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

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

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

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

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

/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

HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10017

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NOV 05 2010
OFFICE OF PETITIONS

In re Application of :
Claas Junghans et al. :
Application No. 10/528,748 : ON PETITION
Filed: March 13, 2006 :
Attorney Docket No. JUNGHANS :

This is a decision on the renewed petition filed November 1, 2010 under the unintentional provisions of 37 CFR 1.137(b), 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, January 4, 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 April 5, 2010. A Notice of Abandonment was mailed on September 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1633 for appropriate action by the Examiner in the normal course of business on the reply received September 14, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SEP 29 2011

OFFICE OF PETITIONS

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

In re Application of :
Lovesy, et al. :
Application No. 10/528,755 : ON PETITION
Filed: October 19, 2005 :
Attorney Docket No. **37388-404900**

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed March 25, 2011. The final Office action set a shortened statutory period for reply of three months from its mailing date. A proper response was received, and the application became abandoned on June 26, 2011.

The Request for Continued Examination filed September 27, 2011, is noted.

The application file is being forwarded to Technology Center 3600, GAU 3691 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Doc Code: PET.RELIEF
Document Description: Certification and Request for Japan Events Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 10/529,014	Patent Number (if applicable):
First Named Inventor: Kengo AKIMOTO	Title of Invention: COMPOSITION CONTAINING ARACHIDONIC ACID ALONE OR IN COMBINATION WITH DOCOSAHEXAENOIC ACID FOR ENHANCING C

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature	Date April 18, 2011
Name (Print/Typed) Zhengyu Feng, Ph.D., Esq.	Practitioner Registration Number 66,816

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage 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.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Akimoto et al.	:	
Application No. 10/529,014	:	DECISION ON PETITION
Filed: May 5, 2005	:	
Attorney Docket No. 47237-0532-00 (216940)	:	

This is a decision on the request filed April 18, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 15, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1618 for re-mailing the Office action of December 15, 2010. The period for reply will run from the mailing date of the Office action.

/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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MAILED
JUL 07 2011
OFFICE OF PETITIONS

LEON E. JEW, ESQ.
DAHYEE LAW GROUP
SUITE 288
5776 STONERIDGE MALL RD.
PLEASANTON CA 94588

In re Application of	:	
Ning-Ping Chan	:	
Application No. 10/529,087	:	ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No.: QNAT0001P	:	

This is a decision in response to the petition, filed June 23, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned on for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 1, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 2, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and submission required under 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on June 23, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Petitioner is advised that the U.S. Patent and Trademark Office (Office) will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through your appointed representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. *See* 37 CFR 1.33(a). A

courtesy copy of this decision is being mailed to petitioner; however, unless directed otherwise, all further correspondence regarding this application will be mailed to the correspondence address of record.

This application is being referred to Technology Center AU 2626 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: NING-PING CHAN
1395 SPRUCE ST
BERKELEY, CA 94709

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LEON E. JEW, ESQ.
DAHYEE LAW GROUP
SUITE 288
5776 STONERIDGE MALL RD.
PLEASANTON CA 94588

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OFFICE OF PETITIONS

In re Patent No. 7,111,237	:	
Issue Date: 09/19/2006	:	
Application Number: 10/529089	:	ON PETITION
Filing Date: 03/24/2005	:	
Attorney Docket Number:	:	
QNAT0002P	:	

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

The petition is **GRANTED**.

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

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

The address listed on the petition is different than the correspondence address of record. 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 patent will be mailed solely to the address of record. If petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: NING-PING CHAN
1395 SPRUCE STREET
BERKELEY CA 94709

Points of the present invention

- Device without a (exciton) blocking layer.
  - Without single exciton blocking means “an energy gap of the electron injecting layer material is smaller than that of the host material.”
  - Without triplet exciton blocking means “a triplet energy of the electron injectiong layer material is smaller than that of the host material.”
- Host material with higher electron mobility.
  - Cz-Az compounds have the feature of electron carrier dominantly transporting rather than hole carrier.
  - By using that compounds, Recombination zone could be on the anode side. [see 0020]

UNITED STATES PATENT AND TRADEMARK OFFICE

0 9 AUG 2010

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

The Dow Chemical Company
P.O. BOX 1967
Midland MI 48641

In re Application of:	:	
KARJALA, Teresa, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/529,530	:	(37 CFR 1.78(a)(6))
PCT No: PCT/US2003/030910	:	
International Filing Date: 01 October 2003	:	
Priority Date Claimed: 02 October 2002	:	
Attorney Docket No.: 62144B	:	
For: LIQUID AND GEL-LIKE LOW	:	
MOLECULAR WEIGHT	:	
ETHYLENE POLYMERS	:	

This is a decision on the "Petition To Accept An Unintentionally Delayed Benefit Claim Under 35 U.S.C. 119(E), 120, 121, And 365(C)" filed 18 June 2010. The petition seeks acceptance of unintentionally delayed claims under 35 U.S.C. 119(e) for the benefit of two prior-filed provisional applications, as set forth in the concurrently filed amendment and application data sheet (ADS).

The petition is **DISMISSED AS MOOT**.

The materials filed on 29 March 2005 to initiate the present national stage application did not include an ADS containing a reference to prior-filed provisional applications 60/415,595 and 60/424,880, nor did the first sentence of the specification following the title contain such a reference. However, the executed declaration filed with the initial national stage materials on 29 March 2005 contained a priority reference directed to these provisional applications.

Where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS, but it does appear either in the oath or declaration or a transmittal letter filed with the application **and** the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).

In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the initial filing receipt mailed herein on 27 October 2005.

In view of the above, the $1,410 petition fee applicable to a petition under 37 CFR 1.78(a)(6) is unnecessary.

Applicants should note that, even though the Office has recognized the benefit claim by including it on applicant's filing receipt and has determined here that a petition under 37 CFR 1.78(a)(6) is not required, as set forth in MPEP section 201.11(III)(D): "the benefit claim is not a proper benefit claim under 35 U.S.C. 119(e) or 35 U.S.C. 120 and 37 CFR 1.78 unless the reference is included in an ADS or in the first sentence of the specification and all other requirements are met." The present decision only indicates that a petition under 37 CFR 1.78(a)(6) is not required for entry of the benefit claims to the provisional applications. It is for the Examiner to determine whether the supplemental ADS and amendment including such benefit claims (filed by applicant concurrently with the present petition) are appropriately entered herein.

Applicant is advised that a supplemental ADS must bear a proper signature. See 37 CFR 1.33(b). The present supplemental ADS is not properly signed. Submission of a supplemental ADS with another signed document does not satisfy the signature requirement. Applicant may wish to refer to the most recent version of Form PTO/SB/14, which can be obtained at http://www.uspto.gov/forms/sb0014_fill.pdf and which contains an appropriate signature box.

Any questions concerning this decision on petition may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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MAILED
SEP 08 2010
OFFICE OF PETITIONS

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

In re Patent No. 7,476,743	: DECISION ON APPLICATION FOR
Issued: January 13, 2009	: PATENT TERM ADJUSTMENT and
Application No. 10/529,634	: NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: November 16, 2005	: CERTIFICATE OF CORRECTION
Dkt. No.: 09367.0012-00000	:

This is a decision on the petition filed on May 20, 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 543 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 543 days is **GRANTED**.

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 **543** 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.

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 : 7,476,743

DATED : **January 13, 2009** **DRAFT**

INVENTOR(S) : Qian, 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 554 days

Delete the phrase "by 554 days" and insert – by 543 days--

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JUN 14 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,919,235
Issued: April 5, 2011
Application No. 10/529,713
Filed: March 31, 2006
Atty. Dkt. No.: 18201-003US1 RCJA0213P-US

: DECISION ON PATENT TERM

This is a decision on the application for patent term adjustment filed June 2, 2011 requesting that the patent term adjustment be increased from 996 days to 1137 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is DISMISSED.

The above-identified application matured into U.S. Pat. No. 7,919,235 on April 5, 2011. The patent issued with a patent term adjustment of 996 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of 632 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 774 days.

With respect to patentee's argument that the period of adjustment pursuant to 37 CFR 1.702(b) totals 774 days, patentee's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 632 days.

35 USC 154(b)(1)(B) states in relevant part:

> 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).

37 CFR 1.702(b) states in relevant part:

> 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).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Herein, a request for continued examination was filed December 23, 2009. Thus, excluding the period of time consumed by continued examination, the period of adjustment pursuant to 37 CFR 1.703(b) is 632 days.

In view thereof, at the time of issuance, the patent was entitled to an overall patent term adjustment of 996 days (556 days pursuant to 37 CFR 1.702(a) + 632 days pursuant to 37 CFR 1.702(b) – 146 days pursuant to 37 CFR 1.704 – 46 overlapping days). Accordingly, no adjustment to the patent term will be made.

Receipt is acknowledged of the required $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.

Telephone inquiries specific to this matter 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
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Application of :
Luis F. Angel :
Application No. 10/529,798 : ON PETITION
Filed: October 28, 2005 :
Attorney Docket No.: 5660-01207 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 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 July 1, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 2, 2010. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3734 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Patent No. 7576063	:	DECISION ON REQUEST
Fujikura et al.	:	FOR
Issue Date: 08/18/2009	:	RECONSIDERATION OF
Application No. 10/529895	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/19/2005	:	
Atty Docket No.	:	
Q87150	:	

This is a decision on the REQUEST FOR RECONSIDERATION filed on June 7, 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 is either 969 days or 801 days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of eight hundred eighty-eight (888) days.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. While applicants filed an express request under 35 U.S.C. 371(f), not all requirements under 35 U.S.C. 371 were filed prior to 30 months from the priority date. Accordingly, the national stage commenced under 35 U.S.C. 371(b) on April 4, 2005, 30 months after the priority date of October 4, 2002. On August 18, 2009, three years and 501 days after the day after the date the national stage commenced, the application issued as U.S. Patent No. 7,576,063. Considering the 81 overlapping days beginning on April 5, 2008, the day after the date three years after the application commenced the national stage under 37 U.S.C. 371(b), and ending on June 24, 2008, the date the first Office action was mailed, the period of adjustment under 37 CFR 1.702(b) is 420 (501 – 81) days.

Accordingly, no change will be made to the patent term adjustment of 888 (583 days Office delay + 420 days three years delay – 115 days of applicant delay) days indicated on Notice Concerning Improper Calculation of Patent Term Adjustment Based Upon USPTO Improperly Measuring Reduction Period Under 37 CFR 1.704(c)(10), mailed on May 17, 2010.

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
10/529,968	03/31/2005	Christoph Weis	105433.62118US	6272

23911 7590 04/20/2011
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
CERNOCH, STEVEN MICHAEL

ART UNIT	PAPER NUMBER
3752	

MAIL DATE	DELIVERY MODE
04/20/2011	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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of: WEIS, CHRISTOPH et al Serial No. 10/529,968 Filed: March 31, 2005 Docket: 105433.62118US Title: PLUMBING OUTLET FITTING	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the request filed April 18, 2011 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed April 12, 2011.

The petition is **Granted.**

After consulting with the Supervisory Patent Examiner of the Art Unit, it was agreed the finality of the Office action of April 12, 2011 should be withdrawn. As such, the Office action mailed on April 12, 2011 will be designated as non-final Office action. Since the finality is being withdrawn, any amendment responding to the Office action of April 18, 2011 will be treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit awaiting the applicant's response to the outstanding Office action mailed on April 12, 2011. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes for
Donald T. Hajec, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120405

DATE : April 05, 2012

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: US 7598989

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:

on the title page:

1) US Patent 5,825,846 is a US equivalent of a reference included in an IDS (WO9723993). The Patent was not in either the IDS or cited in an 892. It should not be entered.

2) JP 2002-291562 was not cited in the IDS or 892. Furthermore, that reference is not even related to the invention (the JP reference is directed to a "Seat reclining device for vehicle and method of manufacturing it"). It should not be entered.

On the specification:

Ok to enter.

/LIN YE/
Supervisory Patent Examiner.Art Unit 2622

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110324

DATE : July 27, 2010

TO SPE OF : ART UNIT 3657

SUBJECT : Request for Certificate of Correction on Patent No.: 7721857

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 SICONOLFI/
Supervisory Patent Examiner.Art Unit 3657

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-26-09

TO SPE OF : ART UNIT 2457

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/530161 Patent No.: 7437416

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

Angela Green

Certificates of Correction Branch

703-756-1541

Thank You For Your Assistance

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

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

Comments: _____

ARIO ETIENNE
SPE

2457
Art Unit

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SEP 28 2010
OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Patent No. 7,671,010	:
Arap et al.	: DECISION ON REQUEST FOR
Issue Date: March 2, 2010	: RECONSIDERATION OF
Application No. 10/530,168	: PATENT TERM ADJUSTMENT
Filed: February 23, 2006	: AND NOTICE OF INTENT
Attorney Docket No. UTSC:857US	: TO ISSUE CERTIFICATE OF
Title: COMPOSITIONS AND METHODS	: CORRECTION
OF USE OF TARGETING PEPTIDES	:
FOR DIAGNOSIS AND THERAPY OF	:
HUMAN CANCER	:

This is a decision on the petition filed on May 3, 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 seven (807) 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 forty-seven (547) days is **GRANTED to the extent indicated herein.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 119 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 733 days (February 29, 2008 to March 2, 2010 the day of issuance of the patent.

However, review of the record shows that an additional reduction of 198 days is warranted. The PCT application was held abandoned for the failure to pay the national fee by February 28, 2005. 37 CFR 1.704(c) provides that:

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.

In this instance, a reduction of 62 days for the submission of reply on January 4, 2010 is warranted. The reduction is based upon the Notice of Missing Parts mailed September 23, 2005. The reduction equals, the number of days in excess of three months that was taken to reply to the September 23, 2005 Notice to File Missing Parts. A reply was submitted in three months and 62 days.

Thus, patentees' delay totals 305 days.

In view thereof, the patent is entitled to an overall adjustment of 547 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.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred forty-seven (547) days.**

> 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:
>
> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of: (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

In this instance the application was held abandoned on February 28, 2005. A grantable petition to revive under 37 CFR 1.137(b) was filed on June 30, 2005 and granted on September 13, 2005.

In accordance with 37 CFR 1.704(c)(3), the adjustment is properly reduced 198 days. The period of reduction commenced February 28, 2005, the date of abandonment, and ended September 13, 2005, the date of mailing of the decision reviving the application. *See*, 37 CFR 1.704(c)(3)(i).

Further, a reduction of 62 days is required pursuant to 37 CFR 1.704(b).

37 CFR §1.704(b) provides:

> 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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,671,010 B2

DATED : **March 2, 2010** **DRAFT**

INVENTOR(S) : Arap 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 446 days

Delete the phrase "by 446 days" and insert – by 547 days--

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: May 9, 2011

Patent No. : 7,914,585 B2
Application No.: 10/530,211
Issued : March 29, 2011
Inventor : Arnold Keller

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 provision of Rule 1.322 or R 1.323.

Respecting the alleged error, on the title page item (30), is an editing change made in accordance with the style of the Invention Patent Manual. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 the Code of Federal Regulation (C.F.R.) R 1.322 or R 1.323.

In view of the foregoing, the change will read as followings:

03001041

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

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

Barry E. Bretschneider
Morrison & Foerster
1650 Tyson Blvd, Suite 400
McLean, Virginia 22101

ej

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OCT 29 2010

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Patent No. 7,567,850	:	
Issue Date: July 28, 2009	:	
Application No. 10/530,219	:	NOTICE
Filed: March 21, 2005	:	
Attorney Docket No. OMOR-0010	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 21, 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/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/1/11

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/530,247 Patent No.: 8016570

CofC mailroom date: 10/25/11

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.

☒ **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**

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 15 2010

OFFICE OF PETITIONS

MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

In re Patent No. 7,554,512	:	
Issued: June 30, 2009	:	
Application No. 10/530,268	:	ON PETITION
Filed: April 5, 2005	:	
Attorney Docket No. 22264-70787	:	

This is a decision on the petition under 37 CFR 1.182, filed September 13, 2010, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The $400.00 petition fee will be charged to petitioner's deposit account as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Farmer at (703) 756-1555 or Kimberly Terrell at (703) 756-1568.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Ollie Person, P/ODM, RSQ 9D30-A (FAX 571-270-9764)
Kimberly Terrell, P/ODM, RSQ 9D33 (FAX 571-270-9958)

UNITED STATES 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: 01/27/11

Patent No. : 7579800 B2
Ser. No. : 10/530,410
Inventor(s) : **Kitano**
Issued : **August 25, 2009**
Title : **MOTOR CONTROL METHOD AND DEVICE THEREOF**
Docket No. : **DK-US055065**

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 mater, 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: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

LMN

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
JUN 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,579,800	:	
Issue Date: August 25, 2009	:	
Application No. 10/530,410	:	DECISION ON PETITION
Filed: April 7, 2005	:	
Attorney Docket No. DK-US055065	:	

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R. §1.322, filed February 11, 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 inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Sumitomo Electric Industries, Ltd., Osaka (JP)"

to:

--Daikin Industries, Ltd., Osaka (JP) --

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

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

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

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,579,800.

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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MAILED

AUG 06 2010

OFFICE OF PETITIONS

KF ROSS PC
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX NY 10471-0900

In re Patent No. 7,717,996
Issue Date: May 18, 2010
Application No. 10/530,444
Filed: April 1, 2005
Attorney Docket No. 23265

DECISION ON PETITION

This is a decision on the Statement Under 37 CFR 3.81(b) And 37 CFR 1.323, filed July 6, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of the second 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 omission of the second assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second 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.

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 that accompanied the petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,717,996.

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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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of	:	
TJOTTA, Enok	:	
Application No. 10/530,488	:	DECISION ON PETITION
Filed: April 06, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **3657-1025**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 08, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the inventor's passport as evidence that Enok Tjotta is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

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

The application is being forwarded to the Technology Center Art Unit 1642 for action on the merits commensurate with this decision.

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
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NOVAK DRUCE + QUIGG LLP
LAURIAN BUILDING
2810 LAURIAN LN., SUITE 200
DUNKIRK, MD 20754

MAILED
JUN 07 2011
PCT LEGAL ADMINISTRATION

In re Application of JACKSON :
U.S. Application No.: 10/530,578 :
PCT Application No.: PCT/US2005/008291 :
Int. Filing Date: 11 March 2005 : DECISION
Priority Date Claimed: 13 March 2004 :
Attorney Docket No.: 010-0026 :
For: SYSTEM AND METHOD FOR PROVIDING :
OBJECT TRIGGERS :

This is in response to the correspondence filed 07 April 2011, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 11 March 2005, applicant filed international application PCT/US2005/008291, which claimed priority of an earlier United States application filed 13 March 2004.

On 07 April 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, the requisite basic national fee.

On 07 February 2011, the DO/EO/US mailed a Notification of Insufficient Fees (Form PCT/DO/EO/923).

On 07 April 2011, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The response states that applicant is entitled to small entity status and further states that small entity status was established at the time of national state entry. However, a review of the application file reveals that large entity national stage fees were paid on 07 April 2005. Pursuant to 37 CFR 1.28(a), applicant is not entitled to a refund based on establishment of small entity status since no refund request was filed within three months of the date the full fee was paid.

Therefore, applicant is not entitled to apply any portion of any large entity fees paid on 07 April 2005 towards any outstanding fees.

CONCLUSION

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

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 06 2011
OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
Arnold Mattheus et al.	:	
Application No. 10/530,628	:	ON PETITION
Filed: March 20, 2006	:	
Attorney Docket No. 2345/210	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

A review of the record shows that a Notice of Appeal was filed on October 13, 2010, which set a shortened statutory period to file an appeal brief of two (2) months. A response was received on May 13, 2011, along with a five month extension of time, which was timely filed.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

The petition fee of $1,620 will be refunded to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received May 13, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED
AUG 11 2010
OFFICE OF PETITIONS

In re Application of	:	
David Winn	:	
Application No. 10/530,646	:	NOTICE
Filed: January 11, 2006	:	
Attorney Docket No. 063391-1106	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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28116
WESTERNGECO LLC
Kevin McEnaney, IP Dept.
10001 Richmond Avenue
Houston, TX 77042-4299

MAILED

MAR 10 2011

PCT LEGAL ADMINISTRATION

In re Application of :
MARTIN *et al* :
U.S. Application No.: 10/530,695 :
PCT No.: PCT/GB2003/004499 :
Int. Filing Date: 13 October 2003 :
Priority Date: 11 October 2002 :
Docket No.: 14.0223-PCT-US :
For: METHOD AND APPARATUS FOR POSITIONING OF SEISMIC SENSING CABLES :

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 12 January 2011 is hereby **GRANTED** as follows:

The additional fees and the petition fee have been paid. Applicants made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the United States Designated/Elected Office for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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.
10/530,696	10/28/2005	Shuji Ozaki	14875-141US1 C1-A0220P-US	1270

26161 7590 09/30/2011
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
GUSSOW, ANNE

ART UNIT	PAPER NUMBER
1643	

NOTIFICATION DATE	DELIVERY MODE
09/30/2011	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):

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 3 0 2011

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

In re Application of:	:
Ozaki et al.	: PETITION DECISION
Serial No.: 10/530,696	:
Filed: October 28, 2005	:
Attorney Docket No.: **14875-141US1 C1-A0220P-US**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed September 1, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on September 30, 2010 be expunged from the record. Petitioner states 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 reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 2 0 2011

Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of:
Ozaki et al.
Serial No.: 10/530,696
Filed: October 28, 2005
Attorney Docket No.: **14875-141US1 C1-A0220P-US**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed August 26, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests to expunge proprietary material filed July 14, 2009 and January 21, 2010. These references contain proprietary information that has not been otherwise been made public. Petitioner states 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 reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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.
10/530,696	10/28/2005	Shuji Ozaki	14875-141US1 C1-A0220P-US	1270

26161 7590 10/25/2011
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
GUSSOW, ANNE

ART UNIT	PAPER NUMBER
1643	

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):

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 2 5 2011

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

In re Application of:
Ozaki et al.
Serial No.: 10/530,696
Filed: October 28, 2005
Attorney Docket No.: **14875-141US1 C1-A0220P-US**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed August 26, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests to expunge proprietary material filed July 14, 2009 and January 21, 2010. These references contain proprietary information that has not been otherwise been made public. Petitioner states 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 reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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DIW Dec-10

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED
DEC 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Pierre Bonnat	:	
Application Number: 10/530946	:	ON PETITION
Filing Date: 01/20/2006	:	
Attorney Docket Number:	:	
5769P006	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on October 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 6, 2008, for failure to timely file a response to the non-final Office action mailed on October 5, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on May 1, 2008.

Receipt of the response to the non-final Office action is acknowledged.

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.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that 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.

---

[1] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application is forwarded to Technology Center Art Unit 2629 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON ST, STE 3400
CHICAGO IL 60661

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Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

MAILED

MAR 08 2011

PCT LEGAL ADMINISTRATION

In re Patent no.: 7,696,163	:
Issue Date: April 13, 2010	:
Application No. 10/530,972	: DECISION ON PETITION
Int. Filing Date: October 08, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 705703	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 21, 2010, seeking to correct a claim for priority by way of a Certificate of Correction.

The petition is GRANTED.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii).

The instant application was filed December 05, 2005. 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. As provided in MPEP § 1481.03, where 35 U.S.C. 120 and 365(c) priority based on an international application is to be asserted or corrected in a patent via a Certificate of Correction, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11);

(C) the patentee must submit together with the request for the certificate, copies of documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. 120 priority is appropriate (see MPEP 201.13(b) as to the requirements for 35 U.S.C. 120 priority based on an international application; and

(D) 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).

As the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed international application satisfies conditions (A) - (D), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Anthony Smith at (571) 272-3298.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUN 27 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Mark Thomas Johnson	:	
Application No. 10/531,035	:	
Filed: April 12, 2005	:	
Attorney Docket No. NL021026US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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 to File Corrected Application Papers (Notice) mailed April 11, 2011, which set a period for reply of one (1) month. Accordingly, the above-identified application became abandoned on May 12, 2011.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY AND LARDNER LLP
3000 K STREET NW, SUITE 500
WASHINGTON, DC 20007

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Steven L. GEERLINGS, et *al.*	:	
Application No. 10/531,108	:	DECISION GRANTING PETITION
Filed: March 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **026032-4906**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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)
7262566	2007-08-28	10531126	2005-04-11	SCAN011US1

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	/R. Stevan Coursey/	Date (YYYY-MM-DD)	2012-04-03
Name	R. Stevan Coursey	Registration Number	39949

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. 7262566
Issue Date: August 28,2007
Application No. 10531126
Filed: April 11,2005
Attorney Docket No. SCAN011US1

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

This is a decision on the electronic petition, filed April 3,2012 ,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 April 3,2012 .
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

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

BORDEN LADNER GERVAIS LLP
ANNE KINSMAN
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Tajinder Manku	:	
Patent No. 7,263,344	:	NOTICE
Application No. 10/531,231	:	
Filed: October 27, 2005	:	
Attorney Docket No. PAT 3285W-2		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 21, 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

Commissioner for Patents
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

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,476,310	:	
Issued: January 13, 2009	:	
Application No. 10/531,273	:	ON PETITION
Filed: April 13, 2005	:	
Attorney Docket No: GIRONDI=8	:	

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission filed May 9, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission in the amount of $1285, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110130

DATE : January 30, 2011

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction on Patent No.: 7851174

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:

/JON P WEBER/
Supervisory Patent Examiner.Art Unit 1657

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 ALEXANDER BELL DRIVE, SUITE 200
RESTON, VA 20191

MAILED

JAN 20 2011

OFFICE OF PETITIONS

In re Application of :
Tsuyoshi Tatsukawa et al :
Application No. 10/531,522 :
Filed: November 21, 2007 :
Attorney Docket No. 36856.1342

ON PETITION

This is a decision on the petition, filed January 20, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 14, 2011 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 2832 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BATTELLE MEMORIAL INSTITUTE
505 KING AVENUE
COLUMBUS OH 43201-2693

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Brian Graham et al. :
Application No. 10/531,531 : DECISION ON PETITION
Filed: December 19, 2005 :
Attorney Docket No. 13801US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed March 3, 2009, which set a shortened statutory period for reply of one (1) month or (30) thirty days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 4, 2009. A Notice of Abandonment was mailed on August 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1633 for appropriate action by the Examiner in the normal course of business on the reply received September 8, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LUCAS & MERCANTI LLP
475 PARK AVENUE SOUTH
NEW YORK, NY 10016

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Klaus Russke :
Application No. 10/531,678 : DECISION ON PETITION
Filed: December 1, 2005 :
Attorney Docket No.: BU 12PCT :

This is a decision in response to the petition, filed November 23, 2009, 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 a failure to reply in a timely manner to a non-final Office action mailed March 14, 2007. A Notice of Abandonment was mailed on September 20, 2007. On November 23, 2009, the present petition was filed. Petitioner asserts that the abandonment should be withdrawn, since "[a]n amendment in response to the Office Action dated March 14, 2007 was filed with a mailing certificate dated September 12, 2007."

A review of the application file confirms receipt of a response to the March 14, 2007, Office action, as it is present among the papers contained in the file. It is noted that the response, including a 3-month petition for extension of time, was filed on September 17, 2007, using a Certificate of Mailing under 37 CFR 1.8 dated September 12, 2007. Accordingly, the response is considered timely.

In view of the above, the Notice of Abandonment mailed September 20, 2007 is hereby vacated and the holding of abandonment is withdrawn.

The application is being referred to Technology Center AU 3612 for appropriate action by the Examiner in the normal course of business on the reply received September 17, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding further prosecution of this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of Mordaunt et al. Application No. 10/531,691 Filed: April 23, 2007 Attorney Docket No. 35678-609N01US Title: SYSTEM, METHOD, AND APPARATUS TO PROVIDE LASER BEAMS OF TWO OR MORE WAVELENGTHS	ON APPLICATION FOR PATENT TERM ADJUSTMENT

This decision is in response to the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. §1.705(B)," filed April 26, 2010. Applicants contend the patent term adjustment as of the mailing of the Notice of Allowance is 64 days.

The request for correction of the initial determination of patent term adjustment (PTA) is **Granted**.

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

The Office has updated the PAIR screen to reflect the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is sixty-four (64) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 26, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the Patent term adjustment to date is one hundred twenty-six (126) days.

A review of the application history reveals that Applicants should have been assessed an additional delay of 62 days.

37 CFR §1.704(b) provides:

> 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.

A Notice to File Missing Parts was mailed on September 22, 2005. The Notice inter alia, required applicants submit a declaration in compliance with 37 CFR 1.497(a) and (b). Applicants submitted a reply to the Notice on February 22, 2006. Pursuant to 37 CFR 1.704(b) the application is subject to 62-day reduction for applicants' delay for the period beginning on December 23, 2005 and ending on February 22, 2006.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is sixty-four (64) days (246) days of PTO delay and (182) days of Applicants delay.

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

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).

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 attorney Liberto 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, attorney Liberto desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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 Charlema Grant, Petitions Attorney, at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

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application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Patent Term Adjustments

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

Application Number*: 10531691 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10531691

Application Filing Date	04/23/2007	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	246
A Delays	246	PTO Manual Adjustment	-62
B Delays	0	Applicant Delay (APPL)	120
C Delays	0	Total PTA (days)	64

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
72	12/13/2010		P028	Adjustment of PTA Calculation by PTO		62	0
64	01/26/2010		MN/=.	Mail Notice of Allowance			0
62	01/22/2010		N/=.	Notice of Allowance Data Verification Completed			0
61	01/22/2010		DOCK	Case Docketed to Examiner in GAU			0
60	01/22/2010		DVER	Document Verification			0
59	01/21/2010		CNTA	Notice of Allowability			0
55	01/18/2010		FWDX	Date Forwarded to Examiner			0
54	01/15/2010		A.NE	Amendment after Final Rejection			0
53	11/19/2009		FLRCPT.C	Filing Receipt - Corrected			0
52	11/09/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
51	11/06/2009		CTFR	Final Rejection			0
47	09/24/2009		FWDX	Date Forwarded to Examiner			0
50	09/21/2009		IDSC	Information Disclosure Statement considered			0
49	09/21/2009		RCAP	Reference capture on IDS			0
48	09/21/2009	07/15/2009	M844	Information Disclosure Statement (IDS) Filed		00	46
44	09/21/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
46	07/15/2009	05/24/2009	A...	Response after Non-Final Action		52	43
45	07/15/2009		XT/G	Request for Extension of Time - Granted			0
43	02/24/2009	06/23/2008	MCTNF	Mail Non-Final Rejection	246		28
42	02/19/2009		CTNF	Non-Final Rejection			0
40	02/11/2009		DOCK	Case Docketed to Examiner in GAU			0
39	01/28/2009		C.AD	Correspondence Address Change			0
63	01/22/2009		IREV	Issue Revision Completed			0
38	12/01/2008		MPEN	Mail Pre-Exam Notice			0
37	03/03/2008		DOCK	Case Docketed to Examiner in GAU			0
36	02/28/2008		DOCK	Case Docketed to Examiner in GAU			0
35	01/02/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
31	10/04/2007		PG-ISSUE	PG-Pub Issue Notification			0
29	07/12/2007		OIPE	Application Dispatched from OIPE			0
27	06/26/2007		PGPC	Sent to Classification Contractor			0
26	06/26/2007		N903	Notice of OO/EO Acceptance Mailed			0
19	06/20/2007		MPTGR	Mail-Petition Decision - Granted			0
17	06/20/2007		MPTGR	Mail-Petition Decision - Granted			0
28	04/23/2007		371COMP	371 Completion Date			0
25	04/23/2007		ADDFLFEE	Additional Application Filing Fees			0
20	04/23/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
18	04/23/2007		PET.	Petition Entered			0
16	04/23/2007		PET.	Petition Entered			0

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ONE FINANCIAL CENTER
BOSTON MA 02111

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APR 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,873,083
Issued: January 18, 2011
Application No. 10/531,691
Filed: April 23, 2007
Attorney Docket No. 35678-609N01US

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. §1.705(d)", filed March 17, 2011. Applicants request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred twenty-three (823) days to eight hundred twenty-four (824) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentees argue that the patent term adjustment period should be 824 days and not 823 as indicated on the patent, on the basis that delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date under 35 U.S.C. 371(f) of April 17, 2005, and that the number of days from the beginning of the "B period" (April 17, 2008, i.e., three years from the 371(b) date) to the end of the "B period" (January 18, 2011, i.e., the day the '083 patent issued) is 1005 days.

Patentees argument has been considered but is not persuasive.

Patentees are advised that in an international application, the over 3 year pendency 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). In this instance, the national stage commencement date is Monday, April 18, 2005 (not April 17, 2005, the date used by patentees for this calculation). The priority date of this application is October 17, 2002. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-month period. Further, as the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, April 18, 2005. Thus, the over

3 year period is 1005 days, counting the number of days beginning on April 18, 2008 and ending on January 18, 2011, the date of issuance of the patent.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

As such, the patent term adjustment is 823 days as previously indicated. 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.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,470,791	: ON PETITION
Kohl et al.	: UNDER 37 CFR 1.183
Issue Date: 12/30/2008	: and
Application No. 10/531720	: ON REQUEST FOR
Filing or 371(c) Date: 04/18/2005	: RECONSIDERATION OF
Attorney Docket No. 26737U	: PATENT TERM ADJUSTMENT

This is a decision on the "Reply to Dismissal of Request for Recalculation of Patent Term Adjustment in View of Wyeth," filed May 20, 2010. The reply is properly treated as a petition under 37 C.F.R. § 1.183, requesting suspension of the time limit for consideration of a request for reconsideration of a patent term adjustment ("PTA").

This petition is hereby **dismissed**.

Your petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,470,791 is 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 consider a patentee's initial request for PTA determination {to conclude its PTA determination}."

The present petition under 37 CFR 1.183 is requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **dismissed**.

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.

The fee for the petition under 37 CFR 1.183 has been charged to petitioner's deposit account as authorized in the petition.

This patent file is being referred to the Files Repository.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: THE NATH LAW GROUP
112 S. WEST STREET
ALEXANDRIA, VA 22314

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Thomas M Wozny
Andrus, Sceales, Starke & Sawall
100 East Wisconsin Avenue
Suite 1100
Milwaukee WI 53202

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In re Application of	:	
Keith R. Minnich et al.	:	
Application No. 10/531,752	:	DECISION ON PETITION
Filed: June 12, 2006	:	
Attorney Docket No. 4553-00013	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed December 13, 2010, which set a shortened statutory period for reply of three (3) months. Three months extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 14, 2011. A Notice of Abandonment was mailed on June 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 21, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1771 for appropriate action by the Examiner in the normal course of business on the reply received June 21, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,874	04/19/2005	Ryuji Ueno	Q87423	5640

23373 7590 02/10/2011
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
POLANSKY, GREGG

ART UNIT	PAPER NUMBER
1614	

NOTIFICATION DATE	DELIVERY MODE
02/10/2011	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):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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FEB 0 9 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of:	:
Ryuji Ueno	: PETITION DECISION
Serial No.: 10/531,874	:
Filed: April 18, 2005	:
Attorney Docket No.: **Q87423**	

This is in response to the petition under 37 CFR § 1.181, filed December 22, 2010, requesting that the finality of the Office action of October 22, 2010 be withdrawn because it was premature.

BACKGROUND

On March 7, 2010, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1, 3-13, and 18, 19 and 21-25 were pending and claims 1, 3-10, 12, 13, 18, 19, 21 and 22 were rejected. The examiner rejected claims 3, 4, 6, 8, 10 and 18 under 35 USC 112, second paragraph, as indefinite. The examiner rejected claims 3, 4, 6, 8, 10 and 18 under 35 USC 112, first paragraph, as failing to comply with the written description requirement. The examiner rejected claims 1, 3-10, 12, 13, 18, 19, 21 and 22 under 35 USC 112, first paragraph, as non-enabling. Claims 11, 23 and 24 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Claim 25 was allowed.

On August 9, 2010, applicant filed amendments to the claims and arguments traversing the examiner's rejections instituted in the non-final Office action of March 7, 2010.

On October 22, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this Office action, claims 1, 5, 7, 11-13, 21 and 24-26 were pending and claims 1, 5, 7, 11-13, 21, 24 and 25 were rejected. The examiner rejected claims 1, 5, 7, 11-13, 21 and 24 under 35 USC 112, second paragraph, as indefinite. The examiner rejected claim 25 under 35 USC 112, first paragraph, as failing to comply with the written description requirement. The examiner rejected claims 1, 5, 7, 11-13, 21, 24 and 25 under 35 USC 112, first paragraph, as non-enabling. Claim 26 was objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form. The examiner indicated that applicant's amendment necessitated the new grounds of rejection.

On December 22, 2010, applicant submitted the petition under consideration herein.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants argues "...the Examiner previously indicated that claim 23 was enabled (see page 5 of the May 7, 2010 Office Action), and Applicant notes claim 1 was amended in the August 9, 2010 Amendment to incorporate the compound of claim 23, as well as to make additional narrowing amendments with respect to the scope of that compound. That is, claim 23 was directed to a 15- keto-16-mono or dihalogen-prostaglandin E1 compound within the scope of formula (I) of previous claim 1, upon which claim 23 depended. Present claim 1 is directed to a 15-keto- 16- mono or dihalogen-prostaglandin E1 compound represented by formula (II), which is a subgenus of previous formula (I). Since previous claim 23 was enabled, Applicants submit that narrower present claim 1, which is within the scope of previous claim 23, should be enabled. However, since the Examiner has rejected it for lack of enablement, the rejection should be made in a non- final Office Action. Accordingly, Applicant submits that the finality of the present Office Action is improper and should be removed."

Applicant's argument has been accorded careful consideration and is persuasive since claim 23 was first rejected under 35 USC 112, first paragraph, in the final Office action of October 22, 2010. Accordingly, applicant's amendments did not necessitate the new rejection. MPEP § 706.07 recites:

> 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).
>
> Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

Thus, it is *not* proper for an office action to be made final when 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).

DECISION

The petition is subsequently **GRANTED**.

The Office action mailed October 22, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. This application will be forwarded to the examiner to take an action consistent with the decision herein.

Should there be any questions about this decision please contact Quality Assurance Specialist 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, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,897	05/17/2006	Joo-Ho Kim	1101.0149	5791

89980 7590 03/16/2012
NSIP LAW
P.O. Box 34688
Washington, DC 20043

EXAMINER
JOHNSON, CONNIE P

ART UNIT	PAPER NUMBER
1722	

NOTIFICATION DATE	DELIVERY MODE
03/16/2012	ELECTRONIC

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

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

info@nsiplaw.com
uspto@nsiplaw.com
nsiplaw@gmail.com

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WASHINGTON, D.C. 20231
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MAR 16 2012

Mailed:

CHK
Paper No.

In re Application of KIM et al.
Serial No.: 10/531897
Filed: May 17, 2006
For: PATTERN FORMATION MATERIALS AND PATTERN FORMATION METHOD USING THE MATERIALS

DECISION ON PETITION
UNDER *37 CFR 1.48(a)*

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed May 20, 2009 to correct inventorship under 37 CFR 1.48(a) by adding the name of Masashi KUWAHARA.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63 and (4) providing the processing fee set forth in 1.17(i). Applicant has provided (5) the written consent of the assignee as required.

The petition is **GRANTED.**

/Cynthia H. Kelly/

Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

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M/S41-SJ
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SAN JOSE CA 95131

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OFFICE OF PETITIONS

In re Application of	:	
Gerard De Haan et al	:	
Application No. 10/531,931	:	DECISION GRANTING PETITION
Filed: April 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NL 021030	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 1, 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 August 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2624 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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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KF ROSS PC
311 East York Street
Savannah GA 31401

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Patent No. 7,892,721	:	
Issue Date: February 22, 2011	:	
Application No. 10/531,962	:	ON PETITION
Filed: November 7, 2005	:	
Attorney Docket No. 24547	:	

This is a decision on the petition filed July 6, 2011, 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.

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

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SUITE 1000
SACRAMENTO CA 95814

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In re Application of	:	
Meisel et al.	:	DECISION ON PETITION
Application No. 10/531,968	:	TO WITHDRAW
Filed: July 26, 2006	:	FROM RECORD
Attorney Docket No. 60045(50177)	:	

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 16, 2010.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on August 16, 2010 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

(1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;

(2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and

(3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with items (1) and (2) of the above certifications.

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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SUITE 1200
WASHINGTON DC 20006-1109

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In re Application	:
Peng, al.	:
Application No. 10/531,996	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: April 20, 2005	:
Dkt. No.: 58768.000007	:

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed February 17, 2011.

Applicants submit that the correct patent term adjustment to be indicated on the patent is 967 days, not 463 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 application is entitled to an adjustment of 725 days pursuant to 37 CFR 1.702(a)(1) in connection with the mailing of restriction requirement on February 11, 2009.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

Applicants argue that the period of adjustment pursuant to 37 CFR 1.702(a)(1) is 967 days, from June 20, 2006, 14 months from the application filing date, to February 11, 2009, the date that the restriction requirement was mailed.

Applicants argument has been carefully considered, but is not found convincing. In accordance with 37 CFR 1.702(a)(1), the term of a patent shall be adjusted for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application. See, also, MPEP 1893.03(b).

The instant application fulfilled the requirements of 35 U.S.C. 371 on September 5, 2006. Accordingly, the period of adjustment pursuant to 37 CFR 1.702(a)(1) commenced November 6, 2007, the day after the date that is 14 months after the date of fulfillment, and ended 464 days later on February 11, 2009, the date that the restriction requirement was mailed. See, 37 CFR 1.703(a)(1).

In view thereof, no correction of the patent term adjustment set forth in the initial determination of patent term adjustment will be made.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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In re Patent of	:	
Fuhr et al.	:	
Pat. Num./Pub. Num: 7,984,616	:	
Issue Date: 07/26/2011	:	
Application No. 10/532017	:	
Filing or 371(c) Date: 04/20/2005	:	ON PETITION
Attorney Docket Number: B1180/20035	:	

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 6, 2011 Paper No.: _____

TO SPE OF : ART UNIT 2617 SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/532,162 Patent No.: 7,792,179 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Should the change to claim 57changing the set of claims "1, 2, 3, 4, 12, 17, 21, 22, 26, 27" to "37, 38, 39, 46, 50, 52, 53, 56" be approved as requested by applicant.?

See COCIN dated 12-9-2010

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: Change request is approved

SPE /Kent Chang/, SPE **Art Unit** 2617

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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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AUG 03 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,622,270	:	DECISION ON REQUEST FOR
Nakagawa et al.	:	RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/532,264	:	AND
Filed: December 28, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 082368-004000US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred (900) 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 (900) days.

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 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 **nine hundred (900) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,622,270 B2

DATED : Nov. 24, 2009 **DRAFT**

INVENTOR(S) : Nakagawa 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 319 days

Delete the phrase "by 319 days" and insert – by 900 days--

PALM INTRANET

Day : Tuesday
Date: 8/3/2010
Time: 12:29:44

PTA Calculations for Application: 10/532264			
Application Filing Date:	12/28/2005	PTO Delay (PTO):	371
Issue Date of Patent:	11/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	52
Post-Issue Petitions:	0	Total PTA (days):	900
PTO Delay Adjustment:	581		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	08/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	581		
86.5	11/04/2009	PTA 36 MONTHS			
86	11/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
85	10/19/2009	EXPORT TO FINAL DATA CAPTURE			
84	10/16/2009	DISPATCH TO FDC			
83	10/14/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
82	10/08/2009	ISSUE FEE PAYMENT VERIFIED			
81	10/08/2009	ISSUE FEE PAYMENT RECEIVED			
80	08/21/2009	FINISHED INITIAL DATA CAPTURE			
79	08/03/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
78	07/17/2009	EXPORT TO INITIAL DATA CAPTURE			
75	07/13/2009	MAIL NOTICE OF ALLOWANCE			
74	07/10/2009	ISSUE REVISION COMPLETED			
73	07/10/2009	DOCUMENT VERIFICATION			
72	07/10/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	07/10/2009	CASE DOCKETED TO EXAMINER IN GAU			
70	07/10/2009	EXAMINER'S AMENDMENT COMMUNICATION			
69	07/06/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	07/10/2009	NOTICE OF ALLOWABILITY			
64	06/07/2009	DATE FORWARDED TO EXAMINER			
63	04/23/2009	RESPONSE AFTER NON-FINAL ACTION		52	61
62	04/23/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
61	12/02/2008	MAIL NON-FINAL REJECTION			
60	11/26/2008	NON-FINAL REJECTION			

59	10/06/2008	DATE FORWARDED TO EXAMINER			
58	09/11/2008	RESPONSE AFTER NON-FINAL ACTION			
57	06/30/2008	MAIL NON-FINAL REJECTION			
56	06/27/2008	NON-FINAL REJECTION			
55	03/03/2008	REFERENCE CAPTURE ON IDS			
54	03/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	01/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	12/28/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	10/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	12/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	02/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	01/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	03/03/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	04/25/2008	DATE FORWARDED TO EXAMINER			
41	04/03/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
40	03/05/2008	MAIL RESTRICTION REQUIREMENT	371		12
39	03/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	01/24/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
37	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	02/26/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
35	12/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	01/24/2008	REFERENCE CAPTURE ON IDS			
33	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	12/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	10/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

28	10/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/01/2007	PRELIMINARY AMENDMENT			
26.7	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	08/31/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
24	08/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	12/28/2005	PRELIMINARY AMENDMENT			
21	08/18/2006	MISCELLANEOUS INCOMING LETTER			
20	02/10/2006	REFERENCE CAPTURE ON IDS			
19	12/28/2005	REFERENCE CAPTURE ON IDS			
18.7	02/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17.7	12/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/13/2006	CLEARED BY OIPE CSR			
14	07/13/2006	CLEARED BY OIPE CSR			
13	07/13/2006	CLEARED BY OIPE CSR			
12	12/28/2005	371 COMPLETION DATE			
11	07/06/2006	APPLICATION DISPATCHED FROM OIPE			
10	07/06/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
9	12/28/2005	ADDITIONAL APPLICATION FILING FEES			
7	12/28/2005	INFORMATION DISCLOSURE STATEMENTS			
6	12/28/2005	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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NELSON MULLINS RILEY
& SCARBOROUGH LLP
IP DEPARTMENT
100 NORTH TRYON STREET, 42ND FLOOR
CHARLOTTE NC 28202-4000

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APR 02 2012
OFFICE OF PETITIONS

In re Application of	:	
Nystrom, et al.	:	
Application No. 10/532,353	:	DECISION
Filed/Deposited: 22 April, 2005	:	
Attorney Docket No. 38004/09098	:	

This is a decision on the papers filed on 17 January, 2012, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

The record indicates that:

The instant application went abandoned after failure to reply to a final Office action mailed on 21 October, 2010, with a reply due absent extension of time on or before 21 January 2011—thus, the application went abandoned after midnight 21 January, 2011.

The Office action in question was mailed to a firm in Cleveland, Ohio.

An after-final amendment was submitted by a practitioner in a second—and apparently un-related—firm in Atlanta, Georgia. (This was the practitioner who then submitted the petition.)

However, the record now reflects that the matter is under the authority of a third—and, again, apparently unrelated—firm, this in Charlotte, North Carolina.

Thus, in view of the period of delay and the involvement of three different firms during that period, the Office is compelled to seek from present Counsel a confirmation that there has been a diligent inquiry into the facts and nature of the delay herein.

Counsel is placed on Notice of the requirement that Petitioner **must** make reasonable inquiry into the facts and circumstances of such delay.[1]

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

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:

Applicant's earlier Counsel (in Cleveland, Ohio) failed to reply to a final Office action mailed on 21 October, 2010, with a reply due absent extension of time on or before 21 January 2011.

On 3 January, 2011, a second Counsel (from a firm in Atlanta, Georgia) filed an amendment after final, which the Examiner refused to enter and (second) Counsel—as one registered to practice before the Office—knew was not as of right and not a proper reply[2] if it did not *prima facie* place

[1] See 37 C.F.R. §11.18(b), formerly §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).

[2] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal with fee, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

the application in condition for allowance, and on 12 January, 2011, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 21 January, 2011.

The Office mailed the Notice of Abandonment 22 July, 2011.

On 17 January, 2012, second Counsel filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and with a statement of unintentional delay. As noted above, the record now reflects that the matter is under the authority of a third—and, again, apparently unrelated—firm, this in Charlotte, North Carolina. As of this writing there is no indication of record that new Counsel has satisfied himself that there has been a proper and independent inquiry to ensure to Counsel's satisfaction (an so state over Counsel's signature and registration number) that the entire period of delay was unintentional delay. Thus, it is not clear as of this writing that there has been compliance with the requirements under the Rule.

(The Rules of Practice[3] and the guidance in Commentary in the Manual of Patent Examining Procedure (MPEP)[4] provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules and guidance are not complied with/followed.)

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

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.[5]

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[3] *See:* 37 C.F.R.: http://www.uspto.gov/web/offices/pac/mpep/documents/appxr.htm .

[4] *See:* MPEP: http://www.uspto.gov/web/offices/pac/mpep/index.htm .

[5] 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.[6],[7]

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.[8]

---

[6] 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).

[7] 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.))

[8] 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 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

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[9]) 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

[9] 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
AUG 08 2011
OFFICE OF PETITIONS

In re Patent of Clemow et al.	:	DECISION ON REQUEST
Patent No. 7,799,084	:	FOR RECONSIDERATION OF
Issued: September 21, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/532,409	:	and
Filed: September 26, 2005	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 051892-0113	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 11, 2010, which is being treated as a petition under 37 C.F.R. § 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 one hundred seventy-seven (1177) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand fifty-three (1053)** days.

Patentees dispute the period of B delay. Patentees' Patent Term Adjustment Calculation System fails to consider the exclusion of the period of appellate review. 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). 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 begins on July 30, 2008, the date of filing of

the notice of appeal and ends on November 30, 2008, rather than December 24, 2008, which is the date of the mailing of an Office action, because the period from December 1, 2008 to December 24, 2008 was already excluded from the B delay period as overlapping days. Thus, B delay is 687 days (881-24-46-124) days.

As such, the patent term adjustment is being increased to 1053 (387 days of A delay + 687 days of B delay - 21 days of Applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand fifty-three (1053)** 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 : 7,799,084 B2

DATED : **September 21, 2010** **DRAFT**

INVENTOR(S) : Clemow 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 1028 days

Delete the phrase "by 1028 days" and insert – by 1053 days--

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OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Patent No. 7,568,543	:
Gaukel et al.	: DECISION ON REQUEST FOR
Issue Date: August 4, 2009	: RECONSIDERATION OF
Application No. 10/532,414	: PATENT TERM ADJUSTMENT
Filed: April 22, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 10191/3791	: TO ISSUE CERTIFICATE OF
Title: DEVICE FOR CONTROLLING	: CORRECTION
RESTRAINING MEANS IN A VEHICLE	:

This is a decision on the petition filed on June 16, 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 three hundred twenty-one (321) days. The May 18, 2010 decision based upon the Request for Recalculation of Patent Term Adjustment in View of Wyeth granted 159 days of patent term adjustment.

The petition to correct the patent term adjustment is **GRANTED** TO THE EXTENT INDICATED.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 0 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 469 days (April 23, 2008 to August 4, 2009).

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 Notice of Appeal filed January 17, 2007. The reduction of 157 days commenced January 17, 2007; the date that the Notice of Appeal was filed, and ended June 22, 2007, the date of mailing an action under 35 U.S.C. 132. See, 37 CFR 1.703(b)(4).

Patentees' delay total 148 days.

In view thereof, the patent is entitled to an overall adjustment of 164 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred sixty-four (164)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,568,543 B2

DATED : August 4, 2009 **DRAFT**

INVENTOR(S) : Gaukel 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 321 days

Delete the phrase "by 321 days" and insert – by 164 days--

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

MAILED

FEB 14 2012

OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

In re Application of	:	
Pelissier	:	
Application No. 10/532,535	:	DECISION ON PETITION
Filed: May 16, 2005	:	
Attorney Docket No. BDL-68	:	
	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 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.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 20, 2008. The non-final Office action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 21, 2008. A Notice of Abandonment was mailed on January 30, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

As to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

<u>As to Period (1)</u>:

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37

CFR 1.137(b). Here, in view of the inordinate delay (over three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 21, 2008. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, an explanation why this application became abandoned while it was under their control and what efforts attorney Young made to reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

<u>As to Period (2):</u>

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A request to change the correspondence address of record was provided on petition however, the request is not clear. As such the change of address has not been entered. Further the address on the petition differs from the requested change. 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 on the petition.

Any renewed petition may 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.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Cc: Nicola A. Pisano
Jones Day
222 East 41st Street
New York, NY 10017

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10532564
Filing Date	17-Aug-2005
First Named Inventor	Yasuhiro Saito
Art Unit	3723
Examiner Name	ALVIN GRANT
Attorney Docket Number	16169.4
Title	GLASS SUBSTRATE FOR INFORMATION RECORDING MEDIUM AND METHOD FOR MANUFACTURING SAME

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Carl T. Reed, Reg.# 45454/
Name	Carl T. Reed
Registration Number	45454

UNITED STATES 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 : April 21,2011

In re Application of :

Yasuhiro Saito

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10532564

Filed : 17-Aug-2005

Attorney Docket No : 16169.4

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 3723 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DILWORTH IP, LLC
2 CORPORATE DRIVE, SUITE 206
TRUMBULL CT 06611

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Giampiero Morini, et al.	:	
Application No. 10/532,686	:	DECISION ON PETITION
Filed: January 20, 2006	:	
Attorney Docket No. 124-400USFE6070	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 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 January 31, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 29, 2010. Accordingly, the date of abandonment of this application is February 1, 2011. The Notice of Abandonment was mailed February 17, 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 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 Office of Data Management for processing into a patent.

/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

MAILED
OCT 27 2011
OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Patent No. 7,998,492	: DECISION ON
Ahluwalia, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/532,746	: of PATENT TERM ADJUSTMENT
Issue Date: August 16, 2011	:
Filed: September 9, 2005	:
Attorney Docket No. C1037.70035US01	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705", filed October 17, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the patent is extended or adjusted from six hundred one (601) days to six hundred four (604) days.

The petition to correct the patent term adjustment is **DISMISSED**.

On August 16, 2011, the above application issued into US Patent No. 7,998,492 with a patent term adjustment of 601 days. The Office calculated a patent term adjustment of 601 days based upon 426 days of "A"' delay plus 455 days of "B" delay, minus 280 days of Applicant delay.

Patentees argue that the Office used the date of April 29, 2005 as the date used to calculate the 455 days of "B" delay. Patentees argue that the Office should have used the date the application was filed under 35 U.S.C. 371, or April 26, 2005.

Patentees' argument has been considered, but is not persuasive. Because Applicant did not request early commencement (see box 3 of the Transmittal Letter), commencement occurred on April 29, 2005 (i.e. 30 months from the priority date). See MPEP 1893.03(b).

In view thereof, the correct number of days of patent term adjustment is six hundred one (601) days (426 days of "A" delay and 455 days of "B" delay), reduced by 280 days of Applicant delay).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.
THE DAVIS BROWN TOWER
215 10TH STREET SUITE 1300
DES MOINES IA 50309

MAILED

OCT 25 2011

OFFICE OF PETITIONS

In re Application of
Masayoshi Yamaguchi
Application No. 10/532,775
Filed: October 7, 2005
Attorney Docket No. 4532660/55140

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 November 26, 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 February 27, 2011. A Notice of Abandonment was mailed on June 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,860, (3) a proper statement of unintentional delay. Accordingly, the amendment is 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 Technology Center AU 1629 for appropriate action by the Examiner in the normal course of business on the reply received October 14, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 27, 2011

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No 10/532975.: 7803579 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: _____

/Gary Benzion/
SPE

1637
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent of Konstantinov	:	DECISION ON REQUEST
Patent No. 7,674,885	:	FOR
Issue Date: March 9, 2010	:	RECONSIDERATION OF
Application No. 10/532,998	:	PATENT TERM ADJUSTMENT
Filed: November 10, 2005	:	and
Docket No. 07430-00150-USU	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 6, 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 forty-five (845) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-five (845) days 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 nine (809)** days.

First, patentees dispute the period of reduction of 364 days for Office delay in mailing at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application. Patentees contend the period of reduction should be 393 days. Second, patentees assert that the Office failed to properly calculate the B delay period.

First, it is not appropriate to review the 14 month delay period under 1.705(d). As stated in MPEP 2730, 1.703(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.

The 14 month delay period issue should have been timely raised on application for patent term adjustment under § 1.705(b). It is not appropriate to address it under 37 CFR 1.705(d).

Second, the calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of May 2, 2005, not May 1, 2005. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. *See* PCT Rule 80.5. Accordingly, the commencement date is Monday, May 2, 2005. The over three year period begins on May 3, 2008 and ends on March 9, 2010. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." Therefore, the appellate period of 6 days (beginning on December 10, 2009, the date a Notice of Appeal was filed, and ending on December 15, 2009, the date the Notice of Allowance and Fee(s) Due was mailed) is excluded from the "B" delay period. Thus, the B delay period is 670 (not 677) days. As such, the patent term adjustment is 809 days (393 A delay + 670 [676 - 6 days excluded] B delay - 225 Applicant delay), not 845 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 the submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

The application is being forwarded to the 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 **eight hundred nine (809)** 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 : 7,674,885 B2

DATED : **March 9, 2010** **DRAFT**

INVENTOR(S) : Konstantinov 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 618 days

Delete the phrase "by 618 days" and insert – by 809 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,793,682 :
Issue Date: September 2, 2003 :
Application No. 10/533,164 : NOTICE
Filed: September 14, 2010 :
Attorney Docket No. 012679-0001-999 :

This is a 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110321

DATE : March 07, 2011

TO SPE OF : ART UNIT 3782

SUBJECT : Request for Certificate of Correction on Patent No.: 7866517

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:

/NATHAN J NEWHOUSE/
Supervisory Patent Examiner.Art Unit 3782

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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VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON TX 77002-6760

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of :
Gao et al. :
Application No. 10/533,208 : ON PETITION
Filed: 04/21/2006 :
Attorney Docket No. INV850/4-011US :

This is response to the petition under 37 CFR 1.137(b), filed September 9, 2011, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the Restriction Requirement, mailed June 26, 2008, which set a period of one month or thirty days, whichever was longer, to reply. Extensions of time for response were available under 37 CFR 1.136(a). The above-identified application became abandoned on July 27, 2008. A Notice of Abandonment was mailed on February 17, 2009. On September 9, 2011, the present petition and reply were submitted and signed by inventor Xiaolian Gao.

37 CFR 1.33(b) states in pertinent part:

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

Mr. Gao is not a patent practitioner of record or a registered attorney or agent not of record acting in a representative capacity. Furthermore, it does not appear that Mr. Gao is an assignee as provided for under § 3.71(b). Therefore, unless there is an assignee of the entire interest who has taken action in this application in accordance with § 3.71(b), all of the inventors must sign both the petition and the reply pursuant to 37 CFR 1.33(b). Accordingly, the petition and the reply are not properly signed by a person having authority to prosecute the application without the signature of a registered patent practitioner, an assignee accompanied by a statement under 37 CFR 3.73(b), or all the other inventors.

Therefore, the petition is **dismissed**. The Office will not render a decision on the present petition and the application will remain abandoned, until a "renewed" petition under 37 CFR 1.137(b) is filed and signed by a person(s) having authority to prosecute the application. No additional petition fee is required.

The Office notes that the address given in the petition differs from the address of record. If the applicants desire to receive future correspondence regarding this application, a change of correspondence address signed in compliance with 37 CFR 1.33(b) must be submitted. The Office will continue to send correspondence to the address of record until otherwise notified. As a one-time courtesy, the Office will mail a copy of the decision to the address listed on the 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 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Xiaolian Gao
2212B Bellafontaine Blvd.
Houston, TX 77030

UNITED STATES PATENT AND TRADEMARK OFFICE

OPAP
SEP 3 0 2011
IAP5
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VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON TX 77002-6760

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of
Gao et al.
Application No. 10/533,208 : ON PETITION
Filed: 04/21/2006 :
Attorney Docket No. INV850/4-011US :

This is response to the petition under 37 CFR 1.137(b), filed September 9, 2011, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the Restriction Requirement, mailed June 26, 2008, which set a period of one month or thirty days, whichever was longer, to reply. Extensions of time for response were available under 37 CFR 1.136(a). The above-identified application became abandoned on July 27, 2008. A Notice of Abandonment was mailed on February 17, 2009. On September 9, 2011, the present petition and reply were submitted and signed by inventor Xiaolian Gao.

37 CFR 1.33(b) states in pertinent part:

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

Mr. Gao is not a patent practitioner of record or a registered attorney or agent not of record acting in a representative capacity. Furthermore, it does not appear that Mr. Gao is an assignee as provided for under § 3.71(b). Therefore, unless there is an assignee of the entire interest who has taken action in this application in accordance with § 3.71(b), all of the inventors must sign both the petition and the reply pursuant to 37 CFR 1.33(b). Accordingly, the petition and the reply are not properly signed by a person having authority to prosecute the application without the signature of a registered patent practitioner, an assignee accompanied by a statement under 37 CFR 3.73(b), or all the other inventors.

Therefore, the petition is **dismissed**. The Office will not render a decision on the present petition and the application will remain abandoned, until a "renewed" petition under 37 CFR 1.137(b) is filed and signed by a person(s) having authority to prosecute the application. No additional petition fee is required.

The Office notes that the address given in the petition differs from the address of record. If the applicants desire to receive future correspondence regarding this application, a change of correspondence address signed in compliance with 37 CFR 1.33(b) must be submitted. The Office will continue to send correspondence to the address of record until otherwise notified. As a one-time courtesy, the Office will mail a copy of the decision to the address listed on the 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 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Xiaolian Gao
2212B Bellafontaine Blvd.
Houston, TX 77030

UNITED STATES PATENT AND TRADEMARK OFFICE

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VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON TX 77002-6760

MAILED
OCT 14 2011
OFFICE OF PETITIONS

In re Application of :
Gao et al. :
Application No. 10/533,208 : ON PETITION
Filed: 04/21/2006 :
Attorney Docket No. INV850/4-011US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 30, 2011, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the Restriction Requirement, mailed June 26, 2008, which set a period of one month or thirty days, whichever was longer, to reply. Extensions of time for response were available under 37 CFR 1.136(a). The above-identified application became abandoned on July 27, 2008. A Notice of Abandonment was mailed on February 17, 2009.

The present renewed petition satisfies the requirements of 37 CFR 1.137(b) in that applicants have supplied (1) the reply in the form of an election; (2) the petition fee; and (3) a proper statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is GRANTED.

The power of attorney and change of correspondence address submitted on September 30, 2011, is unacceptable. 37 CFR 1.32(b) states:

> A power of attorney must:
> (1) Be in writing;
> (2) Name one or more representatives in compliance with (c) of this section;
> (3) Give the representative power to act on behalf of the principal; and
> (4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant.

37 CFR 1.41(b) states:

> Unless the contrary is indicated the word "applicant" when used in these sections refers to the inventor or joint inventors who are applying for a patent, or to the person mentioned in §§ 1.42, 1.43 or 1.47 who is applying for a patent in place of the inventor.

It does not appear that inventor Xiaolian Gao is the assignee of the entire interest. Furthermore, no Statement under 37 CFR 3.73(b) was submitted establishing the right of the assignee to take action in this application. Therefore, the power of attorney and change of correspondence address must be signed by all of the joint inventors.

If the applicants desire to receive future correspondence regarding this application, a power of attorney and change of correspondence address signed by all of the joint inventors or the assignee of the entire interest (accompanied by a Statement under 37 CFR 3.73(b)) must be submitted. The Office will continue to send correspondence to the address of record until otherwise notified. As a one-time courtesy, the Office will mail a copy of the decision to the address listed on the petition.

This matter is being referred to the Technology Center Art Unit 1634 for further action on the reply filed September 30, 2011.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: G. KENNETH SMITH
1645 BRIARWOOD CIRCLE
BETHLEHEM, PA 18015

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POLSTER, LIEDER, WOODRUFF & LUCCHESI, LC
12412 POWERSCOURT DR.
SUITE 200
ST LOUIS, MO 63131-3615

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,318,297 :
Issue Date: January 15, 2008 :
Application No. 10/533,478 : NOTICE
Filed: April 29, 2005 :
Attorney Docket No. POLY 9203US :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

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

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BRIARCLIFF MANOR NY 10510

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Kahlman, Josephus Arnoldus Henricus	:	
Application No. 10/533,505	:	ON PETITION
Filed: May 2, 2005	:	
Attorney Docket No. NL 021134	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2627 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
4TH FLOOR
WASHINGTON DC 20005

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Akiyoshi OKAMOTO, et al	:	
Application No. 10/533,583	:	DECISION ON PETITION
Filed: May 3, 2005	:	TO WITHDRAW
Attorney Docket No. 050252	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 23, 2010.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because no correspondence address for future communications from the Office has been provided.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101110

DATE : November 09, 2010

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7760232 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:

/LIN YE/
Supervisory Patent Examiner.Art Unit 2622

Approved
/Shaheda Abdin/
11/15/2010

92478-2700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Hashimoto et al.	Confirmation No. 8653
Patent No.: 7,589,696	
Issued: September 15, 2009	February 5, 2010
For: PLASMA DISPLAY PANEL APPARATUS AND DRIVING METHOD FOR THE SAME	Costa Mesa, California 92626-7689

REQUEST FOR CERTIFICATE OF CORRECTION

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

Attached is a proposed Certificate of Correction to be issued in the above-identified case.

In the Claims:

Claim 6, Column 18, line 44: "claim 4" should be –claim 1--;

Claim 6, Column 18, line 46: "staffs" should be –starts--.

There is no fee for this request as these represent US Patent Office errors.

If there are any questions with regard to this matter, please contact the undersigned attorney at the listed telephone number.

Very truly yours,

SNELL & WILMER L.L.P.

Joseph W. Price
Registration No. 25,124
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689
Phone: (714) 427-7420
Fax: (714) 427-7799

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **7,589,696** Page 1 of 1

APPLICATION NO. : **10/533,840**

ISSUE DATE : **September 15, 2009**

INVENTOR(S) : **Hashimoto et al.**

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

In the Claims:
Claim 6, Column 18, line 44: "claim 4" should be -claim 1--;
Claim 6, Column 18, line 46: "staffs" should be -starts--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Joseph W. Price, Esq.
Snell & Wilmer LLP
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101115A

DATE : November 15, 2010

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,589,696

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 requested change has been accepted.

/Shaheda Abdin/ 11/15/2010

/Quan-Zhen Wang/
Supervisory Patent Examiner, Art Unit 2629

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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MCCRACKEN & FRANK LLP
311 S. WACKER DRIVE, SUITE 2500
CHICAGO, IL 60606

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Patent No. **7,680,209**	:	
Issue Date: March 16, 2010	:	
Application No. 10/533,861	:	DECISION ON PETITION
Filed: May 5, 2005	:	UNDER 37 CFR 3.81(b)
Attorney Docket No. **28944/40152**	:	

This is a decision on the petition filed July 6, 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 Monica A. Graves at (571) 272-7253. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

[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
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August 4, 2010

Scott Q. Vidas
Vidas, Arrett & Steinkraus
Suite 400
6640 Shady Oak Road
Eden Prairie, MN 55344-7834

Patent No.	: 7,481,949 B2
Ser. No.	: 10/533,888
Inventor(s)	: Akihiro Kawase, et al.
Issued	: January 27, 2009
Docket No.	: O11.2I-11893-US01
Title	: **POLISHING COMPOSITION AND RINSING COMPOSITION**

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:	(571) 273-0025 ATTN: Office of Petitions

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 2 0 2010

OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

In re Patent No. 7,481,949	:	
Issue Date: January 27, 2009	:	
Application No. 10/533,888	:	DECISION ON PETITION
Filed: December 21, 2005	:	
Attorney Docket No. 011.2-11893-US01	:	

This is a decision on the petition, filed, August 25, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee names are Fujimi Incorporated and Wako Pure Chemical Industries. The assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The request was accompanied by a certificate of correction and fee as required by 3.81(b). Further, Office assignment records reflect that Fujimi Incorporated and Wako Pure Chemical Industries were the assignees of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

Petitioner should note that the processing fee of $130 will be charged to petitioner's deposit account as authorized.

---

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

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. 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.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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

Hofbauer Professional Corporation
Suite 3-166
3350 Fairview Street
Burlington ON L7N 3L5
CANADA

In re Patent No. 7,364,351
Issue Date: April 29, 2008
Application No. 10/533,914
Filed: May 5, 2005
Attorney Docket No. 2349/P1112US04

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 30, 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 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
Attorney Advisor
Office of Petitions

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NOV 03 2010

OFFICE OF PETITIONS

Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue NW
Washington DC 20004

In re Patent No. 7,462,623	:
Ple	: DECISION UPON REMAND AND
Issue Date: December 9, 2008	: RECONSIDERATION OF
Application No. 10/533,931	: PATENT TERM ADJUSTMENT
Filed: May 4, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 056291-5205	: TO ISSUE CERTIFICATE OF
Title: Quinazoline Derivatives	: CORRECTION
As SRC Tyrosine Kinase	:
Inhibitors	

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 SEVEN HUNDRED AND FIFTY-EIGHT (758) 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 SEVEN HUNDRED AND FIFTY-EIGHT (758) 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
Copy of adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,462,623

DATED : **December 9, 2008** **DRAFT**

INVENTOR(S) : Ple

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 551 days

Delete the phrase "by 551 days" and insert – by 758 days--

Day : Wednesday

PALM INTRANET

Date: 11/3/2010
Time: 13:32:40

PTA Calculations for Application: 10/533931			
Application Filing Date:	05/04/2005	PTO Delay (PTO):	553
Issue Date of Patent:	12/09/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	758
PTO Delay Adjustment:	207		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	11/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	207		
48.5	11/19/2008	PTA 36 MONTHS			
48	12/09/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
47	11/12/2008	EXPORT TO FINAL DATA CAPTURE			
46	11/11/2008	DISPATCH TO FDC			
45	11/11/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	11/10/2008	ISSUE FEE PAYMENT VERIFIED		2	34
43	11/10/2008	ISSUE FEE PAYMENT RECEIVED			
42	10/25/2008	FINISHED INITIAL DATA CAPTURE			
41	09/26/2008	WORKFLOW - QUERY REQUEST - FINISH			
40	08/21/2008	TC RETURN TO PUBS			
39	08/21/2008	PUBS CASE REMAND TO TC			
38	08/27/2008	WORKFLOW - QUERY REQUEST - BEGIN			
37	08/21/2008	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
36	08/21/2008	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
35	08/11/2008	EXPORT TO INITIAL DATA CAPTURE			
34	08/08/2008	MAIL NOTICE OF ALLOWANCE	12		25
33	08/05/2008	ISSUE REVISION COMPLETED			
32	08/05/2008	DOCUMENT VERIFICATION			
31	08/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	08/04/2008	NOTICE OF ALLOWABILITY			
29	03/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

28	03/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	05/14/2008	DATE FORWARDED TO EXAMINER			
25	03/27/2008	RESPONSE AFTER NON-FINAL ACTION			
24	03/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/27/2007	MAIL NON-FINAL REJECTION	541		-1
21	12/26/2007	NON-FINAL REJECTION			
20	05/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	07/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
12	07/12/2006	REFERENCE CAPTURE ON IDS			
11.7	07/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	07/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/12/2006	CLEARED BY OIPE CSR			
9	02/27/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	02/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
7	05/04/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6.7	05/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	05/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	05/04/2005	371 COMPLETION DATE			
4	08/24/2005	APPLICATION DISPATCHED FROM OIPE			
3	08/24/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
2	06/20/2005	PCT CLASSIFICATION			
1	05/04/2005	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

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APR 27 2011

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
Simone Marie Jeha et al.	:	DECISION REFUSING STATUS
Application No. 10/533,940	:	ON PETITION
Filed: December 29, 2006	:	
Attorney Docket No. PTB-4398-207	:	

This is a decision on the petitions filed April 6, 2011 which are being collectively being treated as (1) a request under 37 CFR 1.48(a) and (b) to amend the inventive entity by the re-inclusion of eleven co-inventors, the addition of three new co-inventors and the removal of three co-inventors and (2) a petition under 37 CFR 1.47(a) to accept this application notwithstanding the absence of the signature of a re-included inventor, which is properly treated as a petition under 37 CFR 1.183 requesting waiver of the requirement under 37 CFR 1.64 that all the originally signing inventors also execute the supplemental oath or declaration filed April 6, 2011.

The petition under 37 CFR 1.183 is **GRANTED**.

The petition under 37 CFR 1.48(b) is **HELD IN ABEYANCE.**

The petition under 37 CFR 1.48(a) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §§1.47(a), 1.183 and 1.48(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration and a statement of lack of deceptive intent executed by the currently non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The co-inventors to be re-included are Kenyon, Yee, Primrose, Saada, Snow, Sapula, Crumblin, Trevor-Wilson, Lithgow, Virr and Richmond. The inventors to be added are Janiak, Kao and Bath. The inventors to be removed are Jeha, Murray and Payne.

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional 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 inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. In those situations where, as here, a previously signing inventor refuses to execute a supplemental oath or declaration under 37 CFR 1.64, waiver under 37 CFR 1.183 of the requirement for an additional signature would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) 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 her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The request under 37 CFR 1.48(a) lacks compliance with items (2) and (5). As to item (2), no statements have been provided for the re-included co-inventors. As to item (5), the statement under 37 CFR 3.73(b) does not recite the reel/frame numbers of the assignments or include copies of the assignment documents.

Since the petition under 37 CFR 1.48(a) cannot be granted at this time, the petition under 37 CFR 1.48(b) to remove co-inventors must be held in abeyance as granting it at this time would result in no inventors listed for the above identified application.

On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR

1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the reexecution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration, or whether the nonsigning inventor could not be reached. In essence, petitioner must show that the inability to again obtain the signature statement from originally signing inventor Sapula is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control. The petition under 37 CFR 1.183 is granted.

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 Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

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

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

David Buck
Petitions Examiner
Office of Petitions

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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JUL 21 2011

OFFICE OF PETITIONS

In re Application of :
Duncan Trevor-Wilson et al. : DECISION
Application No. 10/533,940 : AMENDING INVENTORSHIP
Filed: December 29, 2006 :
Attorney Docket No. PTB-4398-207

This is a decision on the renewed petition filed July 14, 2011, and supplemented on July 19, 2011, which is being treated under 37 CFR §§1.48(a) and (b) to amend the inventive entity.

The petitions are **GRANTED.**

The first petition under 37 CFR 1.183, 1.48(a) and (b) was filed April 6, 2011. In a decision mailed April 27 2011, the petition under 37 CFR 1.183 was granted, the petition under 37 CFR 1.48(a) was dismissed and the petition under 37 CFR 1.48(b) was held in abeyance.

In view of the papers filed July 14, 2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a) and (b).

The inventorship has been changed as follows:

Inventors to be added are Kenyon, Yee, Primrose, Saada, Snow, Sapula, Crumbling, Janiak, Trevor-Wilson, Lithgow, Virr, Richmond, Jama, Kao and Bath.

Inventors to be removed are Jeha, Murray and Payne.

This application is being referred to the Office of Data Management.

A corrected Filing Receipt listing the corrected inventorship is enclosed.

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

Carl Friedman
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/533,940	12/29/2006	3771	14340	PTB-4398-207	39	4

CONFIRMATION NO. 8049

CORRECTED FILING RECEIPT

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

OC000000048901867

Date Mailed: 07/21/2011

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)

Duncan Lovel Trevor-Wilson, Frenchs Forest, AUSTRALIA;
Alexander Virr, Mangrove Mountain, AUSTRALIA;
Perry David Lithgow, Moruya, AUSTRALIA;
Michael Thomas Janiak, North Epping, AUSTRALIA;
Dan Kao, Northbridge, AUSTRALIA;
Andrew Roderick Bath, Quakers Hill, AUSTRALIA;
Geoffrey Crumblin, Baulkham Hills, AUSTRALIA;
Barton John Kenyon, Ashfield, AUSTRALIA;
Arthur Kin-Wai Yee, Pymble, AUSTRALIA;
Rohan Neil Primrose, Villawood, AUSTRALIA;
Donald Angus Richmond, Croydon Park, AUSTRALIA;
Jim Saada, Cremorne, AUSTRALIA;
John Michael Snow, Killarney Heights, AUSTRALIA;
Marek Tomasz Sapula, Parramatta, AUSTRALIA;

Assignment For Published Patent Application

Resmed Limited, North Ryde, New South Wales, AUSTRALIA

Power of Attorney: The patent practitioners associated with Customer Number 23117

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/AU04/00810 06/21/2004

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.)
AUSTRALIA 2003903139 06/20/2003
AUSTRALIA 2003905136 09/22/2003
AUSTRALIA 2004901008 02/27/2004

If Required, Foreign Filing License Granted: 12/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/533,940**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

HUMIDIFIER WITH REMOVABLE WATER TANK

Preliminary Class

128

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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1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Roget et al.	:	DECISION ON PETITION TO
Application Number: 10/533,950	:	WITHDRAW HOLDING OF
Filing Date: 05/04/2005	:	ABANDONMENT
Attorney Docket Number:	:	
271326US0PCT	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 U.S.C. §1.181(A)," filed on January 14, 2011, which is treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on January 5, 2011, stating that the application was abandoned for failure to timely file a reply to the final Office action mailed on January 14, 2010.

Applicant asserts that a timely reply, in the form of a Notice of Appeal was filed.

A review of the record reveals that on January 14, 2010, a final Office action was mailed, setting a three (3)-month shortened statutory period for reply.

On June 14, 2010, a Notice of Appeal and a two (2)-month extension of time under 37 CFR 1.136(a) were filed.

On January, 14, 2011, a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 were filed, along with a five (5)-month extension of time under 37 CFR 1.136(a).

As the notice of appeal filed on June 14, 2010, with a two (2)-month extension of time, was timely filed within the extendable period for reply to the final Office action mailed on January 14, 2010, there is no abandonment in fact.

The Office apologizes for any inconvenience to petitioners. The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 1641 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/28/10

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10533996 Patent No.: 7762267

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
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:

corrections are grammatical in nature
Figure 1 is now commensurate with the
description of the drawings

Katarzyna Wyrozebski — **SPE**

1746 — **Art Unit**

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MAILED Paper No.
JUL 27 2011
OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400,
6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Application of	:	
Maletz et al.	:	
Application No. 10/534,176	:	LETTER REGARDING
Filed: May 5, 2005	:	FEE DEFICIENCY PAYMENT
Atty Docket No. HO1.2-11874	:	

This is in response to the "NOTIFICATION OF LOSS OF SMALL ENTITY STATUS FOR THIS PATENT AND PAYMENT FOR DEFICIENCIES IN FEES" filed July 5, 2011, which is properly treated as a notification of loss of entitlement to small entity status.

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.

This letter includes an itemization of the fee deficiencies and payment as required by 37 CFR 1.28(c)(2)(ii).

Your notification of a loss of entitlement to small entity status is made of record and your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED
AUG 11 2010
OFFICE OF PETITIONS

In re Patent No. 7,618,935	:	DECISION ON REQUEST FOR
Hill et al.	:	RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/534,193	:	NOTICE OF INTENT TO ISSUE
Filed: December 7, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No. SPRUS1140	:	
(026470-0501)	:	

This is a decision on the petition filed on January 5, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **nine hundred eleven (911) days**.

In the present petition, patentee indicates that the total non-overlapping period between A delay and B delay is 964 days. Further, patentee state that applicant delay is 85 days.

A review of the record supports a conclusion that the number of days of applicant delay is 53 days. As such, the patent term adjustment is 911, not 879 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 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 matter is being referred 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 **nine hundred eleven (911) days.**

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,618,935 B2

DATED: Nov. 17, 2009 **DRAFT**

INVENTOR(S): Hill 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 351 days

Delete the phrase "by 351 days" and insert – by 911 days--

Day : Wednesday

PALM INTRANET

Date: 8/11/2010
Time: 10:58:09

PTA Calculations for Application: 10/534193			
Application Filing Date:	12/07/2005	PTO Delay (PTO):	404
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	53
Post-Issue Petitions:	0	Total PTA (days):	911
PTO Delay Adjustment:	560		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	08/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	560		
78.5	10/28/2009	PTA 36 MONTHS			
78	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
77	10/22/2009	EXPORT TO FINAL DATA CAPTURE			
76	10/21/2009	DISPATCH TO FDC			
75	10/16/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
74	10/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
73	10/13/2009	TC RETURN TO PUBS			
72	10/13/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
71	09/22/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	09/22/2009	ISSUE FEE PAYMENT VERIFIED			
69	09/25/2009	REFERENCE CAPTURE ON IDS			
68	09/22/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		2	75
67	09/24/2009	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		23	75
66	09/22/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	09/22/2009	ISSUE FEE PAYMENT RECEIVED			
64	08/06/2009	FINISHED INITIAL DATA CAPTURE			
63	07/01/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
62	06/26/2009	EXPORT TO INITIAL DATA CAPTURE			
60	06/24/2009	MAIL NOTICE OF ALLOWANCE			

59	06/22/2009	ISSUE REVISION COMPLETED			
58	06/22/2009	DOCUMENT VERIFICATION			
57	06/22/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	06/22/2009	EXAMINER'S AMENDMENT COMMUNICATION			
55	06/18/2009	NOTICE OF ALLOWABILITY			
53	05/12/2009	DATE FORWARDED TO EXAMINER			
52	05/05/2009	RESPONSE AFTER NON-FINAL ACTION			
51	03/20/2009	MAIL NON-FINAL REJECTION			
50	03/16/2009	NON-FINAL REJECTION			
49	10/31/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	07/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	04/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	12/18/2008	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
45	01/02/2009	DATE FORWARDED TO EXAMINER			
44	12/18/2008	RESPONSE AFTER NON-FINAL ACTION			
43	10/31/2008	REFERENCE CAPTURE ON IDS			
42	10/31/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	12/10/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
40	10/31/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	10/17/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
38	10/16/2008	MISCELLANEOUS ACTION WITH SSP			
37	07/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	35
36	08/14/2008	DATE FORWARDED TO EXAMINER			
35	07/15/2008	RESPONSE AFTER NON-FINAL ACTION		28	31
34	07/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	07/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	04/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	03/17/2008	MAIL NON-FINAL REJECTION	404		12
30	03/10/2008	NON-FINAL REJECTION			

24	02/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	09/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	07/10/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	12/07/2005	PRELIMINARY AMENDMENT			
18	05/25/2006	CLEARED BY OIPE CSR			
17	05/25/2006	CLEARED BY OIPE CSR			
16	05/25/2006	CLEARED BY OIPE CSR			
15	05/25/2006	CLEARED BY OIPE CSR			
14	05/25/2006	CLEARED BY OIPE CSR			
13	05/25/2006	CLEARED BY OIPE CSR			
12	12/07/2005	371 COMPLETION DATE			
11	05/22/2006	APPLICATION DISPATCHED FROM OIPE			
10	05/22/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
9	12/07/2005	ADDITIONAL APPLICATION FILING FEES			
8	02/06/2006	INFORMATION DISCLOSURE STATEMENTS			
7	12/07/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	12/07/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
5	12/07/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	01/30/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			

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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MAILED
OCT 08 2010
OFFICE OF PETITIONS

RAMBUS INC.
C/O ANN WILLIAMS
4440 EL CAMINO REAL
LOS ALTOS CA 94022

In re Patent No. 7,522,605	:	
Issued: April 21, 2009	:	
Application No. 10/534,308	:	ON PETITION
Filed: July 18, 2005	:	
Attorney Docket No. 0120-33	:	

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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Steven M. duBois
Potomac Patent Group, PLLC
P.O. Box 270
Fredericksburg, VA 22404

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RECEIVED
OCT 12 2010
OFFICE OF PETITIONS

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

In re Application of.	:	
Anthony Spencer	:	
Application No. 10/534,343	:	NOTICE
Filed: July 18, 2005	:	
Attorney Docket No. 0120-032	:	

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 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) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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GLENN PATENT GROUP – RAMBUS INC.
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re application of
Anthony Spencer
Application No. 10/534,346
Filed: May 9, 2005
Attorney Docket No. 0120-031

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on August 25, 2010.

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

Your fee deficiency submission in the amount of $2,510.00 under 37 CFR 1.28 is hereby **ACCEPTED**.

The Office is unclear of the **additional** credit card payment of $2,150.00 on August 25, 2010. Clarification is required.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/4/10 **Paper No.:** —

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/534374 Patent No.: 7500981 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: MPEP 609.02 STATES: WHEN FILING A CONTINUING APPLICATION THAT CLAIMS benefit under 35 USC 120 to an international application that designated the U.S. it will be necessary for the applicant to submit an information disclosure statement complying with 37 CFR 1.97 and 1.98 in the continuing application listing the documents cited in the international search report.

/Suzette J-J Gherbi/ 8/27/10

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 2, 2010

John W. Peck
Kauth, Pomeroy, Peck & Bailey LLP
2875 Michelle Drive
Suite 110
Irvine, CA 92606

Patent No: 7,500,987 B2
Application No: 10/534,374
Applicant: Brad Bassler, et al.
Issued: March 10, 2009
Title: **AMORPHOUS ALLOY STENTS**

Request for Certificate Of Correction:

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

The errors complained of in your request for Certificate of Correction, cannot be corrected since: per the examiner "MPEP 609.02 States: When filing a continuing Application that claims benefit under 35 USC 120 to an international application that designated the U.S. it will be necessary for applicant to submit an information disclosure statement complying with 37 CFR 1.97 and 1.98 in the continuing application listing the documents cited in the international search report".

In view of the foregoing your entire request is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificated of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

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POTOMAC PATENT GROUP PLLC
PO BOX 270
FREDERICKSBURG VA 22404

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NOV 09 2010

OFFICE OF PETITIONS

In re
Anthony Spencer
Application No. 10/534,430
Filed: July 18, 2005
Attorney Docket No. 0120-034

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed August 25, 2010.

The fee deficiency submission under 37 CFR 1.28 of $2455 for two 3 month extensions of time, one 2 month extension, two 1 month extensions, two RCEs, and 1 excess independent claim is hereby **accepted**.

The change of status to large entity has been entered.

The application is being forwarded to the Office of Data Management to await applicant's submission of the issue and publication fees in response to the Notice of Allowance, mailed September 20, 2010.

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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,878,800
Issued: February 1, 2011
Application No. 10/534,493
Filed: June 6, 2005
Attorney Docket No. JPD-3687-114

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)", filed March 16, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 935 days to 1060 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is being considered 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 petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Applicant argues that the period pursuant to 37 C.F.R. § 1.702(a) should be 457 days and the period pursuant to 37 C.F.R. § 1.702(a) should be 997 days, minus applicant delay of 394 days, thus the patent term adjustment should be 1060 days.

Applicant's arguments have been considered, but not found to be persuasive.

The period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 457 days calculated from June 6, 2005, the 371 completion date, and 12 days pursuant to 37 CFR 1.702(a)(2). The delay pursuant to 37 CFR 1.702(b), is based on a national stage commencement date under 35 U.S.C. 371(f) of May 12, 2005, not May 10, 2005. Accordingly, the "B" delay period, the over three year period begins on May 12, 2008, the date the national stage commenced under 35 U.S.C. 371(f), and ends on February 1, 2011, the day the patent issued.

Applicant's calculation however, fails to account for the filing of a Notice of Appeal on February 19, 2009 and a Notice of Appeal on September 15, 2010. 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). The 79 days of the over three year period consumed by appellate review, beginning on February 19, 2009 and ending on May 8, 2009 and the 44 days of the over three year period period consumed by appellate review beginning on September 15, 2010 and ending on October 28, 2010, are not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). The Office has also determined that the period of overlap is 12 days. Thus, B delay is 872 days, considering the 12 days of overlap. As such, the patent term adjustment is 935 (457 + 12 "A delay" days + 872 "B delay" days - 12 days of overlap - 394 Applicant delay days) days, not 1060 days.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 12 2011

PCT LEGAL ADMINISTRATION

In re Application of :
CATINAT et al. :
Application No.: 10/534,502 : DECISION ON PETITION
PCT No.: PCT/EP03/12506 :
Int. Filing Date: 10 November 2003 :
Priority Date: 12 November 2002 :
Attorney Docket No.: 271729US0PCT :
For: ROCESS FOR THE MANUFACTURE OF :
1,2-EPOXY-3-CHLOROPROPANE

This decision is issued in response to the "Request to Correct Filing Date" filed 31 August 2011. Applicants' request has been treated as a petition under 37 CFR 1.181 to correct the filing date for the above-identified application.

BACKGROUND

On 10 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and a preliminary amendment.

On 19 September 2005, applicants filed a declaration executed by joint-inventors.

On 21 October 2005, the DO/EO/US mailed a Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying 19 September 2005 as the date of receipt of the 35 U.S.C. 371 requirements. Subsequently, a filing receipt was mailed to applicants. This filing receipt identified the "filing date" as 19 September 2005.

On 31 August 2011, applicants filed the "Request to Correct Filing Date" considered herein, which requests that the filing date of 19 September 2005 be changed to 10 May 2005.

DISCUSSION

Applicants request a corrected filing date (or 371(c) date) from 19 September 2005 to 10 May 2005. The actual filing date of the present application is the international filing date, i.e., 10 November 2003. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP

§1895.01) A review of the application file reveals that the oath/declaration was filed with the USPTO on 19 September 2005, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage was completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 10 May 2005 is not proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 19 September 2005. (See MPEP section 1893.03(b)).

CONCLUSION

For the reasons above, applicants' request under 37 CFR 1.181 to change the filing date on the filing receipt is DISMISSED without prejudice.

Any reconsideration on the merits of these petition(s) must be filed within TWO (2) MONTHS from the mail date of this decision to file a response. No petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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LRK PATENT LAW FIRM
1952 GALLOWS RD
SUITE 200
VIENNA VA 22182

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Dong-Soon KWON	:	
Application No. 10/534,549	:	DECISION ON PETITION
Filed: May 06, 2005	:	
Attorney Docket No. **P10296US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 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 Restriction Requirement, mailed September 23, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 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 election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction September 23, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1793 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

DECHERT LLP
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MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Scherz et al.	:	
Application No. 10/534,692	:	ON APPLICATION FOR
Filed: 11/09/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
383988-006US (109599)	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b)," filed on November 2, 2010. Applicants assert that the correct patent term adjustment is 1477 days rather than 505 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicants assert entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

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 after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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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.

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) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,947,672	:
Scherz et al.	: DECISION ON REQUEST FOR
Issue Date: 05/24/2011	: RECONSIDERATION OF
Application No. 10/534,692	: PATENT TERM ADJUSTMENT
Filed: 11/09/2005	:
Attorney Docket No. 383988-	:
006US (109599)	:
Title: WATER-SOLUBLE ANIONIC	:
BACTERIOCHLOROPHYLL DERIVATIVES	:
AND THEIR USES	

This is a decision on the petition filed on July 22, 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 five hundred twenty-six (1526) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

BACKGROUND

On May 24, 2011, the above-identified application matured into U.S. Patent No. 7,947,672, with a revised patent term adjustment of 1303 days. On July 22, 2011, 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 1526.

Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contents that 37 CFR 1.703(b)(1) does not comport with the statute 35 USC 154(b)(I)(B) in that the statute requires that 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.

Specifically, patentee argues that (after the filing of the request for continued examination) the Office issued the patent on May 24, 2011. Thus, patentee argues that the B delay should include the entire period from the date three years after the application commenced the national stage under 35 USC 371 until the patent issued, irrespective of the filing of the RCE. Patentee further argues that, based on the "B delay" period ending on the date of issuance of the patent, the period of overlap between the "A delay" and "B delay" is 168 days rather than 81 days as calculated by the Office. Patentee concludes that the correct patent term adjustment is 1526 days (the sum of 658 days of "A delay" and 1106 days of "B delay" minus 168 days of overlap between "A delay" and "B delay" minus 70 days of applicant delay).

Patentee further argues that the "B delay" period should have started on May 14, 2008, the day after the date that is 3 years after the filing date of the application.

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.

At the outset, with respect to the date that the 3 year period began, it is noted that although applicants requested early

processing pursuant to 35 USC 371(f), applicants did not comply with the applicable requirements to 35 USC 371(c) in that an oath or declaration of the inventor in compliance with 35 USC 371(c)(4) was not timely filed within 30 months of the priority date. Accordingly, the application was not eligible for processing under 35 USC 371(f), but was instead processed under 35 USC 371(c), and the date of commencement of the national stage was 30 months after the priority date, or May 17, 2005.

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 796 days based on the application having commenced the national stage under 35 USC 371(b) on May 17, 2005 and the patent not having issued as of the day after the three year date, May 18, 2008, and a request for continued examination under 132(b) having been filed on July 23, 2010. In other words, the 301-day period beginning on the date of filing of the RCE 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

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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.

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 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, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (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

[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.

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 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. 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, a request for continued examination was filed on July 23, 2010, and the patent issued by virtue of that request on May 24, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 23, 2010 and ending on May 24, 2011 is not included in calculating Office delay.

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[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.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1303 days indicated on the patent is correct.

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

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OFFICE OF PETITIONS

In re Patent No. 7,947,672	:	
Scherz et al.	:	DECISION FOR REQUEST
Issue Date: 05/24/2011	:	FOR RECONSIDERATION
Application No. 10/534,692	:	OF PATENT TERM
Filed: 11/09/2005	:	ADJUSTMENT
Attorney Docket No.	:	
383988-006US (109599)	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION DISMISSING PETITION UNDER 37 C.F.R. § 1.705(d)" filed August 31, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from one thousand three hundred three (1303) days to one thousand five hundred twenty-six (1526) days.

A review has been made of the record and in light thereof, the request for reconsideration filed on August 31, 2011 is **DISMISSED**.

BACKGROUND

On March 24, 2011, the above-identified application matured into U.S. Patent No. 7,947,672, with a revised patent term adjustment of 1303 days. This revised determination included an entry of a period of adjustment of 796 days pursuant to 37 CFR 1.702(b) for the Office taking in excess of three years to issue the patent.

On June 22, 2011, patentees filed a petition under 37 CFR 1.705(d) requesting that the patent term adjustment be reflected as 1526 days. By decision mailed August 4, 2011, the request for

reconsideration was dismissed and the patent term adjustment remained 1303 days.

On August 31, 2011, patentees filed the present request for reconsideration. Patentees again dispute the calculation of the "B delay" period of the patent term adjustment. Specifically, patentees' reference the previous petition, filed on July 22, 2011, in asserting that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b).

STATUTE AND REGULATION

35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides, in pertinent part, that:

> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — 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.
>
> ...

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000), and states, in pertinent part:

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[2]:

37 CFR 1.703(b) provides that:

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:

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[2] (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.

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

Patentees' argument has again been considered, but is not persuasive. 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)[4]. With respect to calculating the "B

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[4] 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.

delay" if 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's argument that the regulations are inconsistent with the statute as set forth in 35 U.S.C. § 154 is not well taken. The regulations set forth in 37 CFR 1.702-1.703 are validly promulaged regulations, and the burden remains on petitioner to show that the regulations are inconsistent with the statute.

With regard to patentee's assertion regarding the start of the "B" delay period in an application filed under 35 U.S.C. 371, patentee is reminded that this very issued was discussed in a comment and response in the *Federal Register* notice which implemented 37 CFR 1.701-704.

The *Federal Register* notice stated, in pertinent part:

> Comment 31: Several comments argued that the provisions of proposed 1.704(c)(7) unfairly discriminated against PCT applicants and ignored the legislative history of the Act. These comments suggested that the Office should define, for purposes of patent term adjustment, the "actual filing date" as the date that all requirements for entry into the national stage are met. Another comment argued that the provisions of proposed 1.704(c)(7) and (c)(8) undermine the benefits provided by the international phase procedure under the PCT. This comment also: (1) suggested that any period of patent term adjustment under the three-year pendency provision of 35 U.S.C.

154(b)(1)(B) be reduced by the number of days (if any) beginning on the date on which the national phase commences under 35 U.S.C. 371(b) or (f) and ending on the day the applicant completes the requirements for entry into the national phase; (2) observed that events that occur in the international phase advance prosecution because formalities are resolved, a search is conducted, and preliminary examination is begun; (3) argued that proposed 1.704(c)(7) will force applicants to forgo their entitlements under the treaty or risk a reduction in a term adjustment, and that applicants under the PCT will be in a worse position than regular national applicants; and (4) noted that someone who files a "bypass" application (an application under 35 U.S.C. 111 claiming the benefit of the international application under 35 U.S.C. 120) instead of entering the national phase under 35 U.S.C. 371 will not have the international phase used as a reduction to any term adjustment. The comments also argued that the provisions of proposed 1.704(c)(8) were unfair for the same reasons as stated for proposed 1.704(c)(7). Finally, several comments requested clarification of, or made suggestions, for the language of proposed 1.704(c)(7) and proposed 1.704(c)(8).

Response: The Office is interpreting the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) to mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application. The Office originally interpreted the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) to mean the international filing date of the application under PCT Article 11(3) and 35 U.S.C. 363 in the case of an international application. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term*, 65 FR at 17220, 1233 *Off. Gaz. Pat. Office* at 113. Further consideration of this position, however, leads to the conclusion that: (1) the interpretation of the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) to be the filing date of the international application under PCT

Article 11(3) and 35 U.S.C. 363 in the case of an international application is inconsistent with the legislative history of 35 U.S.C. 154(b)(1)(B) and is incongruous with the provisions of 35 U.S.C. 154(b)(1)(A)(i)(II) and (B)(iii); and (2) the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) must mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application.

Without resort to guides to interpretation (*e.g.*, legislative history, other provisions of title 35, U.S.C., or the PCT), the phrase "actual filing date of the application in the United States" appears to mean that the three-year period specified in 35 U.S.C. 154(b)(1)(B) is measured from the date the application is actually filed (*i.e.*, physically received) in the United States Patent and Trademark Office. That is, the phrase "actual filing date of the application in the United States" appears to mean the date that the application itself is physically received in the United States Patent and Trademark Office, regardless of whether it is an application filed under 35 U.S.C. 111(a) or an international application filed under PCT Article 11.

As discussed above, the American Inventors Protection Act of 1999 was enacted into law as part of Pub. L. 106-113. The Conference Report for H.R. 3194 (which resulted in Pub. L. 106-113) does not contain any discussion (other than the incorporated language) of the American Inventors Protection Act of 1999 (title IV of S. 1948). *See* H.R. Conf. Rep. No. 106-497, at 37 and 1089-174 (1999). A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott. *See* 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999). The section-by-section analysis explained that:

day-for-day restoration of term is granted if the [Office] has not issued a patent within three years after "the actual date of the application in the United States." This language was intentionally selected to exclude the filing date of an application

under the Patent Cooperation Treaty (PCT). Otherwise, an applicant could obtain up to a 30-month extension of a U.S. patent merely by filing under PCT, rather than directly in the [Office], gaining an unfair advantage in contrast to strictly domestic applicants. *See* 145 Cong. Rec. at S14,718.

The legislative history of 35 U.S.C. 154(b)(1)(B) is clear that the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) does not mean (but was intentionally selected to exclude) the date on which the international application was filed under the PCT. The interpretation of the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT (PCT Article 11(3)) would defeat the plain intent of Congress to "exclude the filing date of an application under the [PCT]" and would permit (rather than avoid) the use of the PCT to give an applicant an advantage in obtaining a longer patent term adjustment compared to a similarly processed and examined application filed under 35 U.S.C. 111(a). Therefore, the interpretation of the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) as not meaning the filing date of the application under the PCT (PCT Article 11(3)) is consistent with the legislative history of 35 U.S.C. 154(b)(1)(B).

In addition, the interpretation of the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT is incongruous with the provision in 35 U.S.C. 154(b)(1)(B)(iii).35 U.S.C. 154(b)(1)(B) provides that if the pendency of an application is more than three years from the actual filing date of the application, the term of the patent issuing from the application shall be extended one day for each day after the end of the three-year period, but that certain time periods are excluded from the three-year period. 35 U.S.C. 154(b)(1)(B)(iii) specifically provides that time consumed by delays in the processing of the application by the Office

requested by applicant are excluded from this three-year period. The interpretation of the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) as meaning the "international filing date" under PCT Article 11(3) leads to the result that an applicant is able to obtain a delay in paying fees and filing papers and in the processing of the application by using the PCT (MPEP 1893), and obtain term adjustment based upon the three-year period being measured from the international filing date (*i.e.*, without the delay being excluded from the three-year period as with other applicant-elected delays). This result is incongruous with the provisions in 35 U.S.C. 154(b)(1)(B)(iii) that time consumed by delays in the processing of the application by the Office requested by applicant are excluded from this three-year period.

The interpretation of the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT is also incongruous with the provision in 35 U.S.C. 154(b)(1)(A)(i)(II) where a date later than the filing date of the application under the PCT is used. Each of 35 U.S.C. 154(b)(1)(A)(i) and 154(b)(1)(B) provide that an applicant may be entitled to patent term adjustment if the Office fails to take certain action within a specified time period: (1) provide at least one of an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 within fourteen months (35 U.S.C. 154(b)(1)(A)(i)); or (2) issue a patent within three years (35 U.S.C. 154(b)(1)(B)). For applications filed under 35 U.S.C. 111(a), the fourteen-month period begins with the filing date of the application (35 U.S.C. 154(b)(1)(A)(i)(I)), but for applications that enter the national stage under 35 U.S.C. 371, the fourteen-month period begins with the date on which the international application fulfilled the requirements of 35 U.S.C. 371 (35 U.S.C. 154(b)(1)(A)(i)(II)), which can be more than thirty months after the international filing date of the application.

As discussed above, Congress recognized that national processing of an international application is delayed by up to thirty months under the PCT filing system. Interpreting the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT would require the conclusion that Congress considered the Office's failure to issue a patent within thirty-six months of the filing date of an international application under 35 U.S.C. 363 to constitute an unusual administrative delay (35 U.S.C. 154(b)(1)(B)), but did not consider the Office's failure to initially act on the application to be an unusual administrative delay unless the Office did not issue either an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 within forty-four (thirty plus fourteen) months of the filing date of an international application under 35 U.S.C. 363 (35 U.S.C. 154(b)(1)(A)(i)(II)). 35 U.S.C. 131 and 151, however, require the Office to examine an application and issue a notice of allowance under 35 U.S.C. 151 before issuing a patent on the application. Thus, the interpretation of the "actual filing date of the application in the United States" to mean the filing date under 35 U.S.C. 363 requires the conclusion that Congress intended an odd if not absurd result: that the Office is expected to be able to issue a patent quicker (within thirty-six months of the filing date under 35 U.S.C. 363) than it is expected to be able to initially act on the application (within forty-four months of the filing date under 35 U.S.C. 363).

The legislative history of 35 U.S.C. 154(b)(1)(B) specifically indicates that Congress wanted to avoid the situation in which an applicant could gain an extension of "up to" thirty months merely by filing the application under the PCT system. *See* 145 Cong. Rec. at S14,718 ([o]therwise, an applicant could obtain up to a 30-month extension of a U.S. patent merely by filing under PCT, rather than directly in the [Office], gaining an unfair advantage in contrast to strictly domestic applicants). While 35 U.S.C. 154(b)(1)(A)(i)(II) ties its fourteen-month period to

fulfillment of the requirements of 35 U.S.C. 371 in the case of an international application, the PCT and 35 U.S.C. 371 permit applicants to delay fulfillment of the requirements of 35 U.S.C. 371 beyond thirty months (rather than "up to" thirty months). The PCT (PCT Article 39(1)(a)), however, allows an applicant to obtain a delay of up to thirty months in commencement of the national stage (35 U.S.C. 371(b)) by the timely filing of a demand for international preliminary examination. Therefore, the legislative history of 35 U.S.C. 154(b)(1)(B) indicates that the phrase "actual filing date of the application in the United States" as used in 35 U.S.C. 154(b)(1)(B) means the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application.

In addition, while the international phase of an international application is not entirely devoid of activity, the Office does not (and cannot) begin examination of the application as provided for in 35 U.S.C. 131 and 132 until after it has entered that national stage of processing under 35 U.S.C. 371(b) or (f). See PCT Articles 23 and 40. Therefore, it is consistent with the legislative history of 35 U.S.C. 154(b) to not take the period prior to commencement of the national stage into account in determining whether the Office is meeting any of the time frames for examination of the application provided for in 35 U.S.C. 154(b)(1).

35 U.S.C. 363 does provide, in relevant part, that "[a]n international application designating the United States shall have the effect, from its international filing date under [PCT Article 11], of a national application for patent regularly filed in the [Office]." The legislative history of 35 U.S.C. 363 indicates that an international application designating the United States, regardless of whether it was filed in this or any other contracting country, has the effect, from its international filing date, of a regular national application for patent filed in the United States Patent and Trademark Office, and that the international filing date of an international

application would be considered as the actual filing date in the United States Patent and Trademark Office (except as provided in 35 U.S.C. 102(e)). *See* H.R. Rep. No. 94-592, at 9 (1975), *reprinted in* 1975 U.S.C.C.A.N. 1220, 1228. Nevertheless, the phrase "shall have the effect" of having an earlier filing date (the international filing date) as used in the patent statute does not necessarily mean that the actual filing date of the application is the earlier filing date (the international filing date). *See In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966) (discusses distinction in the patent statute between an actual filing date having the same effect of such a filing date).

In addition, PCT Article 11(3) provides, in relevant part, that "any international application fulfilling the requirements listed in [PCT Article 11(1)(i) through (iii)] and accorded an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State." Read in conjunction with the provisions of PCT Article 11(3), the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b)(1)(B) might appear to mean the filing date of the international application under PCT Article 11(3) and 35 U.S.C. 363 in the case of an international application. Nevertheless, it is not appropriate to mechanically interpret the phrase "actual filing date of the application in the United States" in 35 U.S.C. 154(b) in light of PCT Article 11(3) when that interpretation is at odds with the legislative history of this provision of 35 U.S.C. 154(b)(1)(B) and the provisions of 35 U.S.C. 154(b)(1)(A)(i)(II) and (B)(iii).

The Office will continue to interpret the phrase "from the date on which the application for the patent was filed in the United States" in 35 U.S.C. 154(a)(2) (and former 35 U.S.C. 154(b)(3)(B)) as meaning the international filing date under PCT Article 11(3) and

35 U.S.C. 363 in the case of an international application.

If the phrase "actual filing date of the application in the United States" as used in 35 U.S.C. 154(b)(1)(B) were to be interpreted to mean any date other than the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application, the Office would have to consider the failure to fulfill the requirements of 35 U.S.C. 371 to be a circumstance constituting a failure to engage in reasonable efforts to conclude prosecution (or processing or examination) of an application in an international application and reduce the period of any patent term adjustment by the period beginning on the "actual filing date of the application in the United States" of the application and ending on the date the application fulfilled the requirements of 35 U.S.C. 371. The interpretation of the phrase "actual filing date of the application in the United States" as used in 35 U.S.C. 154(b)(1)(B) to mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application, however, renders it unnecessary to provide that any period of patent term adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B) be reduced by the number of days (if any) beginning on the date on which the national phase commences under 35 U.S.C. 371(b) and ending on the day the applicant completes the requirements for entry into the national phase. After commencement of national stage processing, delays in fulfilling the requirements of 35 U.S.C. 371 will be treated under 1.704(b).

Finally, the interpretation of the phrase "actual filing date of the application in the United States" as used in 35 U.S.C. 154(b)(1)(B) to mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application, rather than establishing the failure to fulfill the requirements of 35 U.S.C. 371 as a circumstance constituting a failure to engage in reasonable efforts to conclude prosecution (or processing or examination)

> of an application, will not force applicants to forgo their entitlements under the treaty or risk a reduction in a term adjustment, and will place PCT applicants in a similar position to "regular" national applicants or applicants who chose to file a "bypass" application (an application under 35 U.S.C. 111 claiming priority under 35 U.S.C. 120 to the international application) instead of entering the national phase under 35 U.S.C. 371.[5]

As such, the agency's position for implementing the regulation, and for rejecting patentee's position has been thoroughly discussed.

In the subject matter, although applicants requested early processing pursuant to 35 USC 371(f), applicants did not comply with the applicable requirements to 35 USC 371(c) in that an oath or declaration of the inventor in compliance with 35 USC 371(c) (4) was not timely filed within 30 months of the priority date. Accordingly, the application was not eligible for processing under 35 USC 371(f), but was instead processed under 35 USC 371(c), and the date of commencement of the national stage was 30 months after the priority date, or May 17, 2005.

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 796 days based on the application having commenced the national stage under 35 USC 371(b) on May 17, 2005 and the patent not having issued as of the day after the three year date, May 18, 2008, and a request for continued examination under 132(b) having been filed on July 23, 2010. In other words, the 301-day period beginning on the date of filing of the RCE 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."

With respect to patentee's argument concerning the exclusion the time consumed by continued examination from the three year period, patentee's argument is similarly not well taken. This matter, too, was discussed in the *Federal Register* at the time the regulations in question were implemented:

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[5] 65 Fed. Reg. 56366, 56382-84.

> Comment 8: One comment objected to the exclusion from the three-year period in 1.703(b)(1) of the period of time in which a request for continued examination under 35 U.S.C. 132(b) and 1.114 is processed. The comment argues that filing a request for continued examination should not preclude an applicant from obtaining a term adjustment for printing delays of a patent.
>
> Response: 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and 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 1.114. Nevertheless, if a request for continued examination is filed in an application, the applicant may still accrue patent term adjustment under 35 U.S.C. 154(b)(1)(A) or (C). Accordingly, if two years after the filing date of an application, a request for continued examination is filed, and three years after the filing date of the application, the issue fee is paid (and all outstanding requirements are satisfied), but the patent does not issue as a patent until four years after the application's filing date, applicant may be entitled to an eight-month term adjustment because the application did not issue within four months of payment of the issue fee. Since the request for continued examination was filed within three years of the filing date of the application, applicant cannot accrue any term adjustment under the "three-year" statutory basis (35 U.S.C. 154(b)(1)(B)), but may accrue patent term adjustment under the other bases (e.g., 35 U.S.C. 154(b)(1)(A)(iv)). [6]

The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that

[6] 65 Fed. Reg. 56366, 56375-76.

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.

Patentees' argument that the "B-delay" period did not end with the filing of a request for continued examination in this case 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)).

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[7]. 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

[7] 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.

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 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.

In this instance, a request for continued examination was filed on July 23, 2010, and the patent issued by virtue of that request on May 24, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 23, 2010, and ending on May 24, 2010, is not included in calculating Office delay. In view thereof, it is concluded that the patent term adjustment of 0 days is correct.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1303 days indicated on the patent is correct. The request for reconsideration of the revised patent term adjustment is therefore dismissed.

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 the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). As this request pertains only to the over 3-year delay issue previously raised in the

application for patent term adjustment, no additional fees are required.

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

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In re Application of	:
Tomilinson et al.	:
Application No. 10/534,772	: ON APPLICATION FOR
Filed: March 22, 2007	: PATENT TERM ADJUSTMENT
Attorney Docket No.	:
577712000200	:
Title: Complement Receptor 2	:
Targeted Complement Modulators	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed June 16, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred sixty-one (461) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

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 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).

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].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

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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.

The Office has updated the PAIR screen to reflect the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is four hundred seventy-two (472) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 16, 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 the patent term adjustment to date is 0 days. Applicants dispute the calculation 28 day adjustment and the 387 day reduction.

The Office has considered applicants' argument and finds it persuasive.

Applicants contend that an adjustment of 207 days instead of 28 days is required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, pursuant to § 1.702(a)(1).

A restriction requirement was mailed on December 15, 2008, which is 14 months and 207 days after the application fulfilled the requirements of 35 U.S.C. 371 on March 22, 2007. A review of the record shows that the requirements of 35 U.S.C. 371 were fulfilled on March 22, 2007, not September 17, 2007.

As such an adjustment of 207 days (May 23, 2008- December 15, 2008) is warranted. The 28 day adjustment will be removed and a 207 day adjustment will be entered.

Applicants also dispute the 387 day reduction for the submission of the information disclosure statement (IDS) on May 7, 2010. Applicants contend the May 7, 2010 IDS contained a statement pursuant to 37 CFR 1.704(d) and thus no reduction is required.

A review of the record shows that the 387 day reduction for the submission of the information disclosure statement on May 7, 2010 is not warranted. 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

> 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:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

37 CFR 1.704(d) provides:

> 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.

In this instance, the information disclosure statement submitted on May 7, 2010 contained a statement pursuant to 37 CFR 1.704(d). Thus, the submission of the IDS does not constitute a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the 387 day reduction will be removed.

The total number of days of Office delay at the time of the mailing of the Notice of Allowance is 534 (207 + 327) days. Applicant at the time of the mailing of the Notice of Allowance is 62 (31 + 31) days.

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 four hundred seventy-two (472) days.

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 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) 272-3215.

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

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

Application Number*: 10534772 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10534772

Application Filing Date	03/22/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	355
A Delays	355	PTO Manual Adjustment	566
B Delays	0	Applicant Delay (APPL)	449
C Delays	0	Total PTA (days)	472

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
103	07/19/2011		P028	Adjustment of PTA Calculation by PTO	387		0
102	07/19/2011		P028	Adjustment of PTA Calculation by PTO	207		0
101	07/19/2011		P028	Adjustment of PTA Calculation by PTO		28	0
79	03/16/2011		MN/=.	Mail Notice of Allowance			0
78	03/11/2011		IREV	Issue Revision Completed			0
77	03/11/2011		DVER	Document Verification			0
76	03/11/2011		EX.A	Examiner's Amendment Communication			0
75	03/11/2011		N/=.	Notice of Allowance Data Verification Completed			0
74	03/11/2011		DOCK	Case Docketed to Examiner in GAU			0
72	03/05/2011		CNTA	Allowability Notice			0
73	03/04/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
70	02/24/2011		FWDX	Date Forwarded to Examiner			0
69	02/23/2011		A.NE	Amendment after Final Rejection			0
68	01/27/2011		ELC_RVW	Electronic Review			0
67	01/27/2011		EML_NTF	Email Notification			0
66	01/27/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
65	01/22/2011		CTFR	Final Rejection			0
60	11/17/2010		FWDX	Date Forwarded to Examiner			0
64	11/08/2010		IDSC	Information Disclosure Statement considered			0
62	11/08/2010		RCAP	Reference capture on IDS			0
61	11/08/2010	11/08/2010	M844	Information Disclosure Statement (IDS) Filed			59
59	11/08/2010	10/08/2010	A...	Response after Non-Final Action		31	55
58	11/08/2010		XT/G	Request for Extension of Time - Granted			0
57	11/08/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
55	07/08/2010	08/15/2009	MCTNF	Mail Non-Final Rejection	327		35
54	07/06/2010		CTNF	Non-Final Rejection			0
47	05/07/2010		IDSC	Information Disclosure Statement considered			0
46	05/07/2010	04/15/2009	M844	Information Disclosure Statement (IDS) Filed		387	35
45	05/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
44	04/19/2010		DOCK	Case Docketed to Examiner in GAU			0
43	03/03/2010		DOCK	Case Docketed to Examiner in GAU			0
42	07/29/2009		DOCK	Case Docketed to Examiner in GAU			0
36	06/01/2009		FWDX	Date Forwarded to Examiner			0
48	04/15/2009		IDSC	Information Disclosure Statement considered			0
37	04/15/2009		M844	Information Disclosure Statement (IDS) Filed			0
35	04/15/2009	03/15/2009	ELC.	Response to Election / Restriction Filed		31	32
34	04/15/2009		XT/G	Request for Extension of Time - Granted			0
33	04/15/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
32	12/15/2008	11/17/2008	MCTRS	Mail Restriction Requirement	28		21
31	12/11/2008		CTRS	Restriction/Election Requirement			0
49	12/03/2008		IDSC	Information Disclosure Statement considered			0
39	12/03/2008		RCAP	Reference capture on IDS			0
38	12/03/2008		M844	Information Disclosure Statement (IDS) Filed			0
29	12/03/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
28	10/30/2008		DOCK	Case Docketed to Examiner in GAU			0
27	10/30/2008		PG-ISSUE	PG-Pub Issue Notification			0
26	10/10/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
22	08/07/2008		OIPE	Application Dispatched from OIPE			0
20	07/23/2008		PGPC	Sent to Classification Contractor			0
19	07/23/2008		FLRCPT.O	Filing Receipt			0
18	07/23/2008		M903	Notice of DO/EO Acceptance Mailed			0
17	07/16/2008		ADDFLFEE	Additional Application Filing Fees			0
16	07/16/2008		SES	Small Entity Statement (37 CFR 1.27)			0
15	07/16/2008		CPYISR	Copy of the International Search Report			0
13	07/16/2008		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0

12	07/16/2008	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
11	07/16/2008	CRFE	CRF Is Good Technically / Entered into Database	0
10	09/18/2007	M916	Notice of DO/EO Defective Response Mailed.	0
21	09/17/2007	371COMP	371 Completion Date	0
0.5	11/13/2003	NEFILE	International Filing date	0

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

MAILED
MAY 04 2011
OFFICE OF PETITIONS

In re Patent No. 7,887,831 :
Issue Date: February 15, 2011 :
Application No. 10/534,794 : ON PETITION
Filed: November 7, 2005 :
Attorney Docket No. 2488.015 :

This is a decision on the petition filed April 12, 2011, 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) 272-3230. 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.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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SEP 23 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Francesco Alex Maone, et al. :
Application No.: 10/534,890 :
Filed: May 12, 2005 :
Attorney Docket No.: CH02 0035 US :

This is a decision in response to the petition, filed June 10, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b). The delay in responding is regretted; however, was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 2008. A Notice of Abandonment was mailed on April 16, 2009. On June 10, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2629 for appropriate action by the Examiner in the normal course of business on the response filed June 10, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ORGANON USA, INC.
c/o MERCK
2000 Galloping Hill Road
Mail Stop: K-6-1, 1990
Kenilworth NJ 07033

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Patent No. 7,795,280	: DECISION ON REQUEST FOR
HERMKENS et al.	: RECONSIDERATION OF
Issue Date: September 14, 2010	: PATENT TERM ADJUSTMENT
Application No. 10/534,945	: AND
Filed: May 6, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 0-2002.723 US	: CERTIFICATE OF CORRECTION

This is a decision on the Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d), filed November 11, 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 nine hundred fifty-three (953) 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 fifty-three (953) days** is **GRANTED**.

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 **nine hundred fifty-three (953) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,795,280 B2

DATED : Sept. 14, 2010 **DRAFT**

INVENTOR(S) : HERMKENS 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 956 days.

Delete the phrase "by 956 days" and insert – by 953 days--

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MAGINOT, MOORE & BECK
CHASE TOWER
SUITE 3250
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Subramanian et al.	:	DECISION ON PETITION
Application No. 10/535,172	:	TO WITHDRAW
Filed: May 16, 2005	:	FROM RECORD
Attorney Docket No. LAN0065US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 2, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on July 2, 2010 the power of attorney to Maginot, Moore & Beck was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: SpryIP, LLC
LAN
5009 163rd PL SE
Bellevue WA 98006

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Decision Date : May 2,2011

In re Application of :

Ted Marchildon

Application No : 10535225

Filed : 16-May-2005

Attorney Docket No : 34232.1

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 2,2011

The request is **APPROVED.**

The request was signed by A. John Pate (registration no. 36234) on behalf of all attorneys/agents associated with Customer Number 28049 . All attorneys/agents associated with Cusotmer Number 28049 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	Ted Marchildon
Name2	c/o Gary Pierce
Address 1	Pierce IP Law Group
Address 2	299 South Main Street, Suite 1300
City	Salt Lake City
State	UT
Postal Code	84111
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

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	10535225
Filing Date	16-May-2005
First Named Inventor	Ted Marchildon
Art Unit	3644
Examiner Name	EBONY EVANS
Attorney Docket Number	34232.1
Title	Plant Growing Apparatus

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 28049

The reason(s) for this request are those described in 37 CFR:

10.40(c)(5)

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	Ted Marchildon c/o Gary Pierce
Address	Pierce IP Law Group 299 South Main Street, Suite 1300
City	Salt Lake City
State	UT
Postal Code	84111
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/A. John Pate/
Name	A. John Pate
Registration Number	36234

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PATE PIERCE & BAIRD
POST OFFICE BOX 520812
SALT LAKE CITY, UT 84152-0812

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MAY 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Marchildon, Ted	:	DECISION ON PETITION
Application No. 10/535,225	:	TO WITHDRAW
Filed: May 16, 2005	:	FROM RECORD
Attorney Docket No. 34232.1	:	

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 7, 2011.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that a second Request for Withdrawal as Attorney or Agent was submitted on May 2, 2011. This request was automatically granted by EFS-Web on the same day, May 2, 2011. Accordingly, the previously submitted Request to Withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address as specified until otherwise properly notified.

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/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: TED MARCHILDON
C/O GARY PIERCE
PIERCE IP LAW GROUP
299 SOUTH MAIN STREET, SUITE 1300
SALT LAKE CITY UT 84111

29 SEP 2010

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of Ono et al. Application No.: 10/535,336 PCT No.: PCT/JP2003/014709 Int. Filing Date: 19 November 2003 Priority Date: 19 November 2002 Attorney Docket No.: P27943 For: Agent For Dissolving Dental Calculi And Dental Caries	:	DECISION

This is in response to the "Response to Decision" filed on 26 February 2010.

DISCUSSION

In a Decision mailed on 04 January 2010, counsel was advised that

> Inspection of the declaration filed on 06 January 2006 reveals that it does not appear to have been made on a form supplied by the USPTO, or under Rule 4.17(iv), and that the statement required under 37 CFR 1.69(b) does not appear to have been made. Applicants are required to either provide such statement or else a new oath or declaration

In response, petitioner has provided a statement under 37 CFR 1.69(b) which attests to the accuracy of the translation of the "attached" declaration. This is construed as referring to the declaration attached to and previously filed in this application, 10/535,336. Applicants are required to promptly notify the Office of PCT Legal Administration if this interpretation is incorrect. As such, the declaration filed on 06 January 2006 is accepted.

DECISION

The declaration filed on 06 January 2006 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **30 October 2009** (the date the English translation was filed).

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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UNITED STATES DEPARTMENT OF COMMERCE
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/04/2010

Applicant	: Pascal Hennemann	: DECISION ON REQUEST FOR
Patent Number	: 7651002	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/535,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1288** 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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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAY 25 2011
OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,851,164	:	
Issue Date: December 14, 2010	:	
Application No. 10/535,395	:	DECISION ON PETITION
Filed: April 10, 2006	:	
Attorney Docket No. 272478US0XPCT	:	

This is a decision on the Petition For Certificate Of Correction Under 37 CFR §1.183, filed January 10, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of the second assignee's name. A completed Certificate of Correction Form was submitted with Petition.

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

Petitioner urges that the present Petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second 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.

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 submitted with the petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,851,164.

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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INNOVATION COUNSEL LLP
21771 STEVENS CREEK BLVD
STE. 200A
CUPERTINO CA 95014

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Seung-Woo Lee et al	:	
Application No. 10/535,406	:	ON PETITION
Filed: May 18, 2005	:	
Attorney Docket No. PANK01642 US	:	

This is a decision on the petition under 37 CFR 1.137(a), filed July 15, 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 nonfinal Office action mailed April 2, 2009. A Notice of Abandonment was mailed on February 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $540.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Technology Center AU 2629 for appropriate action by the Examiner in the normal course of business on the reply received July 15, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110817-A

DATE : August 17, 2011

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,583,760

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:

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

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RODMAN RODMAN
10 STEWART PLACE
SUITE 2CE
WHITE PLAINS NY 10603

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Application of Monaghan et al. :
Application No. 10/535,487 : Decision on Petition
371(c) Date: May 17, 2005 :
Attorney Docket No. RR-584 PCT/US :

This is a decision on the petition under 37 C.F.R. § 1.181 filed December 9, 2011, which requests withdrawal of the holding of abandonment.

The petition is **granted.**

37 C.F.R. § 1.304 sets forth a two-month time period based on the mailing date of a decision of the Board of Patent Appeals and Interferences ("Board"). A copy of the Board decision is attached, and for purposes of 37 C.F.R. § 1.304, the mailing date of the Board decision is the mailing date of the instant decision. In other words, **unless an appropriate action is taken within two months from the mailing date of the instant decision, proceedings on this application will terminate.**

Background

The Office mailed a Board decision on September 14, 2011.

The Office did not receive a reply to the decision and the application did not include any allowed claims. As a result, the Office mailed a Notice of Abandonment on November 16, 2011.

The instant petition was filed December 9, 2011. The petition states the Board decision was never received at the address of record.

Discussion

The evidence supplied with the petition is sufficient to demonstrate the Board decision was not received at the address of record. Therefore, the holding of abandonment is withdrawn.

Technology Center Art Unit 1771 will be informed of the instant decision in order to ensure the examiner is aware the application is not abandoned. *If* Applicants fail to file a response to the

Board decision within two months from the mailing date of the instant decision, the examiner will issue a new Notice of Abandonment.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachment: Decision by the Board of Patent Appeals and Interferences

UNITED STATES PATENT AND TRADEMARK OFFICE

BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte GERARD VINCENT MONGHAN,
WAYNE A. BROWN and ROBERT J. PINCHUK

Appeal 2011-005420
Application 10/535,487
Patent Publication 2005/0279671
Technology Center 1700

Before: FRED E. McKELVEY, JAMESON LEE, and SALLY C. MEDLEY, *Administrative Patent Judges*.

McKELVEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Decision

1 Upon consideration of the appeal, including the Appeal Brief (filed
2 20 September 2010) and the Examiner's Answer (mailed 9 November 2010),
3 there being no reply brief, and *for the reasons given in the Examiner's Answer*, the
4 second (albeit non-final) rejection of claims 2-17 and 19-26 under 35 U.S.C.
5 § 102(b) (Answer, page 3) and of claims 18 and 24 under 35 U.S.C. § 103(a)
6 (Answer, page 8), is *affirmed*.

7 **Discussion**

8 We adopt as our opinion, the Examiner's Answer, including the Examiner's
9 (1) analysis of the claims, (2) findings concerning the prior art (Jewell, U.S. Patent
10 2,717,867 granted 13 September 1955) and (3) response to arguments presented in
11 the Appeal Brief.

12 Anticipation is a question of fact. An examiner's finding of fact must be
13 supported by a preponderance of the evidence. In this appeal, all the facts found
14 by the Examiner are supported by a preponderance of the evidence.

15 We add the following with respect to "directly".

16 Claim 26, in step (c), calls for "introducing the liquid feed material *directly*
17 to the fluid bed ..." (italics added). A search of the application as published does
18 not reveal that the word "directly" was present in the application as filed. Hence, it
19 was added by amendment.

20 Addition of new words to a specification is discussed by Circuit Judge Linn
21 in *Perspectives on Becoming a Successful Examiner*, 91 J. Pat. & Tm. Office Soc'y
22 418 (No. 6, June 2009). At page 421, Judge Linn states: "In case after case before

my court, the central debate revolves around the meaning of claim terms that, for example, were added during prosecution and do not appear anywhere in the written description. For those cases, the meaning of the claim limitation has to be inferred from other words, leaving the issue open to unnecessary dispute and leading frequently to protracted and costly litigation." What Judge Linn says happens in his court is precisely what happened in this appeal.

In prosecution before the Examiner, a claim is given its broadest reasonable interpretation in light of the specification. Claim 10, which depends from Claim 26, limits "directly" to "spraying the liquid feed material so that the liquid feed material contacts the solid particles [fluid bed] as droplets." Jewell describes spraying at col. 4:15-19 (spraying hot residual oil downwardly). Jewell further describes a "[p]referably" embodiment where "little or no liquid oil falls on the upper surface of the fluid bed of coke." Col. 3:58-63. The non-"preferably" embodiment therefore results in some liquid falling on the upper surface of the fluid bed. The oil charged into drum 19 can be sprayed into the drum and in the non-"preferably" embodiment some oil falls "directly" on the upper surface of the fluid bed.

Observation in the event of further prosecution

We have decided the appeal on the basis that "directly" is described in the application as filed. However, should the Examiner's 102 and 103 rejections based on Jewell be overcome in future prosecution because it turns out that "directly" is not described by Jewell, then a rejection based on a lack of written description under 35 U.S.C. § 112 should be made of the claims on appeal.

Without the word "directly" in Claim 26, ETX Systems, Inc. (the real party in interest) would have no argument for distinguishing the manner in which the inventors and Jewell introduce oil to the fluid bed. ETX's argument can be made in this appeal at this time solely because "directly" appears in Claim 26. However, if "directly" is a significant concept distinguishing Jewell from the claimed invention, then "directly" is manifestly a new concept added to the specification after the application was filed. A new concept added to an application after its filing date fails the written description § 112 requirement. Accordingly, should Jewell be overcome, we suggest that in future prosecution a lack of written description rejection be made.

At this time, we will exercise our discretion by not entering a new rejection because the Examiner's rejections have been affirmed and we decline to reopen prosecution to enter a "contingent" new rejection.

Order

Upon consideration of the appeal, it is

ORDERED that the decision on the Examiner rejecting all the claims on appeal is *affirmed.*

FURTHER ORDERED that no time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

ack

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Patent No. : 7,708,809 B2
Ser. No. : 10/535,547
Inventor(s) : Kita et al.
Issued : May 4, 2010
Title : HYDROGEN PERMEABLE MEMBRANE
Docket No. : 6920/1082-US0
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 16, 2011

Patent No. : 7,489,319 B2
Appl. No. : 10/535,626
Inventor(s) : Seijiro Tomita
Issued : February 10, 2009
Title : **LIGHT SOURCE DEVICE FOR THREE-DIMENSIONAL DISPLAY**
Docket No. : **050319**

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 mater, is hereby denied.

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

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

By mail: Mail Stop PETITIONS
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By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314
(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

EDWARDS WILDMAN PALMER LLP
P.O. BOX 55874
BOSTON MA 02205

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VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Fred K. Suzuki, et al.	:	DECISION ON PETITION
Application No. 10/535,779	:	TO WITHDRAW
Filed: August 4, 2005	:	FROM RECORD
Attorney Docket No. **39200.00.0010**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed May 4, 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

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: MHAT3002/JEK	Patent Number: 7662036
Filing Date (or 371(b) or (f) Date): 2005-05-20	Issue Date: 2010-02-16
First Named Inventor: Ramesh Nana Mhatre	
Title: 3-CONE DIFFUSER	

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 /ThomasJMoore/	Date 2010-08-12
Name (Print/Typed) Thomas J. Moore	Registration Number 28974

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

☐ *Total of _____ forms are submitted.

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 09/21/2010

Applicant	: Ramesh Nana Mhatre	: DECISION ON REQUEST FOR
Patent Number	: 7662036	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/535,847	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1215** 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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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Nilsson et al.	:	DECISION ON PETITION
Application No. 10/535,876	:	TO WITHDRAW
Filed: January 9, 2006	:	FROM RECORD
Attorney Docket No. 1503-1081	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2011.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed via Customer Number however the request does not designate a Customer Number to be withdrawn by. The request was signed by Liam McDowell on behalf of all the practitioners (with registration numbers) of record listed on the attached papers.

Further, the Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40(c).

The current request does not properly withdraw practitioners via Customer Number as it does not set forth all of the above certifications. Therefore, the request cannot be approved at this time. Any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed and provide all of the above listed certifications pursuant to 37 CFR 10.40(c).

There are no outstanding Office actions that require a reply from the applicant.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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ECKERT SEAMANS CHERIN & MELLOTT, LLC
U.S. STEEL TOWER
600 GRANT STREET
PITTSBURGH PA 15219-2788

MAILED
NOV 16 2010
OFFICE OF PETITIONS

In re Application of :
Georg Schmidt et al. :
Application No. 10/535,921 : NOTICE
Patent No. 7,200,528 :
Filed: May 23, 2005 :
Attorney Docket No. **UC 208-KFM**

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

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

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

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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DAVID AND RAYMOND PATENT FIRM
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

MAILED
DEC 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Jun Ming Xie, et al.	:	
Application No. 10/535,955	:	DECISION ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. USP3003C/SZ085-SQN	:	

This is a decision on the petition, filed September 27, 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 Non-Final Office action of February 26, 2010 which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before May 26, 2010, or, on or before August 26, 2010, with a three (3)-month extension of time. A Notice of Abandonment was mailed August 30, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on August 26, 2010, which included the following papers: an amendment, and a request for a three (3) month extension of time, with a check for $555. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated August 26, 2010, which would have rendered the reply timely if received.

The file record includes the originally submitted papers. However, the papers were received at the Office on August 30, 2010. 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 February 26, 2010 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 1618 for appropriate action in the normal course of business on the amendment filed on August 30, 2010.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,597,753 :
Issue Date: October 6, 2009 :
Application No. 10/535,968 : ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. **310.1048** :

This is a decision on the petition filed March 29, 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**.

Petitioner states that the correct assignee's name is "Nederlandse Organisatie voor toegepast-natuurwetenschappelijk onderzoek TNO (NL)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) and $100 fee for 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

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

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

MAILED
NOV 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Christopher A. Mayhew	:	
Application No. 10/536,005	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. 05048.0027	:	

This is a decision on the petition under 37 CFR 1.182, filed November 4, 2011, to change the order of the name of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Christopher A. Mayhew

2. Michael B. Martin

Our records have been updated and a corrected Filing Receipt, which sets forth the changes as requested. A copy will be attached to this decision.

This application is being forwarded to the Office of Publications for further processing.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/536,005	05/20/2005	2485	1100	05048.0027	24	3

CONFIRMATION NO. 1822

CORRECTED FILING RECEIPT

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

OC000000050915801

Date Mailed: 11/10/2011

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)

Christopher Alan Mayhew, Oakton, VA;
Michael Burgess Martin, Germantown, MD;

Power of Attorney: The patent practitioners associated with Customer Number 22852

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/37203 11/20/2003
which claims benefit of 60/427,961 11/21/2002

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: 11/10/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/536,005**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CRITICAL ALIGNMENT OF PARALLAX IMAGES FOR AUTOSTEREOSCOPIC DISPLAY

Preliminary Class

348

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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FEB 14 2011

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Patent No. 7,582,640	: DECISION ON PATENT TERM
Issued: September 1, 2009	: ADJUSTMENT and NOTICE OF INTENT
Application No. 10/536,028	: TO ISSUE CERTIFICATE OF
Filed: May 18, 2005	: CORRECTION
Dkt. No.: MARKS1100 (041376-1100)	:

This is a decision on the petition filed on October 29, 2009 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 993 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 993 days is **GRANTED**.

The Office acknowledges the 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 993 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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,640

DATED : September 1, 2009 **DRAFT**

INVENTOR(S) : Ruxer, 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 522 days

Delete the phrase "by 522 days" and insert – by 993 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110404

DATE : March 23, 2011

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction on Patent No.: 7,888,479

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/MISOOK YU/
Supervisory Patent Examiner.Art Unit 1642