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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,097	03/03/2006	Douglas D. De Masi SR.		2633

7590 10/19/2011
Douglas D. DeMasi, Sr.
1214 Beekman Road
Hopewell Junction, NY 12533

EXAMINER
VENNE, DANIEL V

ART UNIT	PAPER NUMBER
3617	

MAIL DATE	DELIVERY MODE
10/19/2011	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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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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OCT 19 2011

Douglas D. DeMasi, Sr.
1214 Beekman Road
Hopewell Junction, NY 12533

In re application of	:	**DECISION ON PETITION**
Douglas D. DeMasi, Sr.	:	**FOR EXTENSION OF**
Application No. 10/536,097	:	**TIME UNDER 37 CFR 1.136(b)**
Filed: March 3, 2006		
For: FLYING WATER JET-SKI SUBMARINE		

This is in response to the petitions filed on April 18, 2011 and August 25, 2011 for a two or three month extension of time under 37 CFR 1.136(b). The delay in treating these petitions is sincerely regretted.

The petition is **DENIED**.

The requirements for granting a request for an extension of time under 37 CFR 1.136(b) are: (A) the provisions of 37 CFR 1.136(a) must not be available; (B) sufficient cause must be shown and a reasonable time to be extended specified; (C) the request must be filed on or before the day on which such a reply is due; and (D) must not attempt to extend a time period: (a) set in a Notice of Allowability, (b) to submit an oath or declaration in compliance with 37 CFR 1.63, (c) to submit formal drawings, or (d) to make a deposit of biological material. Furthermore, in no situation can any extension carry the date on which the reply is due beyond the maximum time period set by statute.

The petition lacks the requirements of item (A) above. A review of the file indicates that a non-final Office action was sent to the applicant on March 15, 2011. The Office action set a 3 month shortened statutory period for reply which indicated that extensions of time under 37 CFR 1.136(a) were available. Because of the availability of extensions of time under 37 CFR 1.136(a), no extensions of time under 37 CFR 1.136(b) are possible.

The above-noted Office action indicated that applicant may request extensions of time under 37 CFR 1.136(a). Applicant was able to purchase a one, two or three month extension, but in no instance can the period for response be extended to run beyond the 6 month statutory period running from the mail date of the Office action. The extension of time fees are : $150., $560., and $1270. for one, two and three month extensions of time, respectively. If applicant can, or has qualified as a small entity, the fees for extension are one-half those listed above. Requests for extensions of time

under 37 CFR 1.136(a) need not be filed within the original shortened statutory period, but must be filed within the extended period for reply. It unfortunately looks like the six month statutory period has expired as of September 16, 2011, and it is no longer possible to request extensions of time under 37 CFR 1.136(a).

Inquiries related to this decision may be directed to Special Programs Examiner Steven N. Meyers at (571) 272-6611

SUMMARY: Petition for extension of time under 37 CFR 1.136(b) is **DENIED**.

The file will be returned to the examiner of record to await further action.

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

SM/SM; 10/14/11

SM

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OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,735,366
Issued: June 15, 2010
Application No. 10/536,120
Filed: October 15, 2007
Attorney Docket No. **21767P**

: DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT INDICATED ON THE PATENT AND APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705 (d)" filed July 27, 2010.

The request is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On September 21, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Office initially determined a patent term adjustment based on an adjustment for PTO delay of two hundred thirty-four (234) days, pursuant to 35 U.S.C. 154(b)(1)(A)(I) and 37 CFR §§1.702(a)(1).

An application for PTA (with required fee), filed December 18, 2009 with payment of the issue fee, asserted that the determination should have resulted in a patent term adjustment under 37 C.F.R. § 1.703(a)(1) of 280 days. The petition was granted and the adjustment was made. On June 15, 2010, the above-identified application matured into U.S. Patent No. 7,735,366 with two hundred eighteen (218) total PTA days. On July 27, 2010, patentees timely submitted the instant request for reconsideration of patent term adjustment, within two months of the patent grant asserting that the correct PTA calculated under § 1.703(a) is 338 (280 days plus 58 days delays pursuant to 37 C.F.R. § 1.702(a)(4)), days and that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the subject patent as set forth in 37 C.F.R. § 1.704.

Applicant's argument has been considered but is not found to be persuasive.

A review of the file reveals that 120 days were deducted for applicant delay for a miscellaneous incoming letter filed on December 18, 2009 after allowance of an Application for Patent Term Adjustment. The reduction in question, after the mailing of the Notice of Allowance was a REQUEST FOR CORRECTED FILING RECEIPT.

37 CFR § 1.704(c)(10) provides that:

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

The reduction has been considered a proper a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

> Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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FOX ROTHSCHILD, LLP
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SEP 28 2010
OFFICE OF PETITIONS

In re Application of
Patrick Lapointe
Application No. 10/536,210
Filed: May 23, 2005
Attorney Docket No. 5535-102US//P28463-A-USA

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 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, December 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 29, 2010.

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

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 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 3688 for appropriate action by the Examiner in the normal course of business on the reply received August 13, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

Cc: PERRY FONSECA
FOX ROTHSCHILD, LLP
PO BOX 5231
PRINCETON, NJ 08543

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MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
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WESTBOROUGH, MA 01581

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OFFICE OF PETITIONS

In re Application of
Gerald J. Colpas, et al.
Application No. 10/536,220
Filed: October 20, 2005
Attorney Docket No.: 15535-46039

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 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 January 13, 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 April 14, 2010. A Notice of Abandonment was mailed on August 3, 2010. On September 9, 2010, the present petition was filed.

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 fees included with this petition will be credited to counsel's credit card.

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 1645 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
DITEWIG, et al	:	
Application No. 10/536,271	:	DECISION ON PETITION
Filed: May 24, 2005	:	
Attorney Docket No. NL02 1220 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 2824 for appropriate action by the Examiner in the normal course of business.

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

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OFFICE OF PETITIONS

In re Application of	:	
PHILLIPS, et al	:	
Application No. 10/536,291	:	DECISION ON PETITION
Filed: May 25, 2005	:	
Attorney Docket No. NL02 1246 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 7, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 2824 for appropriate action by the Examiner in the normal course of business.

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

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OFFICE OF PETITIONS

In re Application of	:	
Hara et al.	:	DECISION ON PETITION
Application Number: 10/536352	:	
Filing Date: 12/14/2005	:	
Attorney Docket Number: Q88159	:	

This is a decision on the petition filed on December 15, 2010, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. This is also a decision on the petition filed on January 11, 2011, requesting expedited treatment under 37 C.F.R. § 1.182 of the previously filed petition under 37 CFR 1.182. The petition fee has been received.

The petitions are granted.

Petitioner asserts that the terminal disclaimer filed on November 18, 2010, was filed in error and is not required. As the examiner has determined that the terminal disclaimer does not apply to any claim currently of record, the requested relief can be favorably considered.

This application is being referred to Technology Center Art Unit 1765 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative 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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DEC 15 2010

OFFICE OF PETITIONS

In re Patent of Ostrander et al.	:	
Patent No. 7,729,863	:	
Issue Date: June 1, 2010	:	DECISION ON REQUEST
Application No. 10/536,369	:	FOR RECONSIDERATION OF
Filing Date: February 1, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. FHCR125375	:	

This is a decision on the petition filed June 23, 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 nine hundred ninety-three (993) days.[1]

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The patent issued on June 1, 2010. This request for reconsideration was timely filed within two months of the issue date of the patent.

The issued patent includes a patent term adjustment determination of 648 days, which is the sum of 612 days of delay under 37 C.F.R. § 1.703(a) ("A Delay") and 92 days of delay under 37 C.F.R. § 1.703(b) ("B Delay") reduced by 0 days of overlap between A Delay and B Delay and reduced by 56 days of delay under 37 C.F.R. § 1.704 ("Applicant Delay").

Patentees argue the correct patent term adjustment is 993 days based on an assertion the period of A Delay is 704 days and the period of B Delay is 345 days.

Patentees do not provide any explanation for asserting the period of A Delay is 704 days other than indicating the patent term adjustment mailed with the Notice of Allowance included 704 days of A Delay. However, the patent term adjustment mailed with the Notice of Allowance

[1] Although the petition discusses the patent term adjustment determination mailed with the Notice of Allowance, the petition was filed after the patent issued. Therefore, the Office has treated the petition as a petition under 37 C.F.R. § 1.705(d).

included 612 days of A Delay. Therefore, the Office is not persuaded the period of A Delay should be 704 days.

Patentees' argument that the period of B Delay is 345 days is based on an assertion the national stage commenced on May 25, 2005, not February 1, 2006. However, Patentees fail to provide Patentees' rationale for believing the date of commencement is May 25, 2005.

The transmittal letter filed May 25, 2005, requested early processing of the application. As a result, the date of commencement is the earlier of the date Petitioner complied with the requirements under 35 U.S.C. § 371(c) or the date 30 months after the priority date of the international application. The date Petitioner complied with the requirements under 35 U.S.C. § 371(c) is February 1, 2006. The date 30 months after the priority date is June 17, 2006. Therefore, the date of commencement is February 1, 2006.

In view of the prior discussion, the petition is dismissed and the patent term adjustment remains 648 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,439	11/28/2005	Sharon Gerecht-Nir	29599	2114

7590 02/09/2011
MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

EXAMINER
FORD, ALLISON M

ART UNIT	PAPER NUMBER
1651	

MAIL DATE	DELIVERY MODE
02/09/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

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February 9, 2011

PPG INDUSTRIES, INC.
Intellectual Property Department
One PPG Place
Pittsburgh PA 15272

In re Application of	:	
Gerecht-Nir, Sharon et, el	:	**DECISION ON PETITION**
Application No. 10/536,439	:	
Filed: 05/26/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 29599	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) July 1, 2010.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
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EAST PALO ALTO CA 94303

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Gera Neufeld et al.	:	
Application No. 10/536,440	:	DECISION ON PETITION
Filed: November 14, 2005	:	
Attorney Docket No. ARBS-00T1US2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, June 28, 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 September 29, 2010. A Notice of Abandonment was mailed on March 14, 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 Notice of Appeal, with the required fee of $270, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the Notice of Appeal is accepted as being unintentionally delayed.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to the Board of Patent Appeals and Interferences for appropriate action in the normal course of business for processing of the reply received January 11, 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

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Gera Neufeld, et al.	:	
Application No. 10/536,440	:	DECISION ON PETITION
Filed: November 14, 2005	:	TO WITHDRAW
Attorney Docket No. ARBS-00t1US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 13, 2011.

The request is **NOT APPROVED**.

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

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 of the first named inventor for future communications from the Office.

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

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

UNITED STATES 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. : 8,114,598 B2
Ser. No. : 10/536,502
Inventor(s) : Geddes et al.
Issued : Feb. 14, 2012
Title : HIGH-SENSITIVITY ASSAYS FOR PATHOGEN DETECTION USING METAL ENHANCED FLUORRESCENCE
Docket No. : 026228-101.02-029
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 06 2011
OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,910,030	: DECISION ON REQUEST FOR
REMON et al.	: RECONSIDERATION OF
Issue Date: 03/22/2011	: PATENT TERM ADJUSTMENT
Application No. 10/536,520	: AND
Filed: 07/25/2005	: NOTICE OF INTENT TO ISSUE
Atty Docket No. 50304/083001	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 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 two hundred twenty-four (1,224) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred twenty-four (1,224) days is **GRANTED**.

The Office acknowledges payment of the requisite $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the petition under 37 CFR 1.705(d). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred twenty-four (1,224) 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 : 7,910,030 B2

DATED : Mar. 22, 2011 **DRAFT**

INVENTOR(S) : REMON 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 1146 days.

Delete the phrase "by 1146 days" and insert – by 1224 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

IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE IL 60089

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent of Ramakrishna et al.	:	DECISION ON REQUEST
Patent No. 7,875,605	:	FOR
Issue Date: January 25, 2011	:	RECONSIDERATION OF
Application No. 10/536,618	:	PATENT TERM ADJUSTMENT
Filed: April 11, 2006	:	
Attorney Docket No. SUB 0006 US	:	

This is a decision on the petition filed on March 25, 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 two hundred eighty-eight (1288) or one thousand two hundred ninety (1290) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighty-eight (1288) or one thousand two hundred ninety (1290) days is **DISMISSED**.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of Tuesday, May 31, 2005, not May 28, 2005 or May 26, 2005, as patentees assert. Per 35 U.S.C. 371(f), at the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with. 35 U.S.C. 371(c)(4) requires an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of

section 115 of this title and with regulations prescribed for oaths or declarations of applicants.

While early processing was requested, early processing requirements were not met. The oath/declaration was filed on April 11, 2006.

The earliest claimed priority date is November 28, 2002. Because the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on Saturday, May 28, 2005, the period expired on the subsequent business day, Tuesday, May 31, 2005, as Monday, May 30, 2005 was a holiday. *See* PCT Rule 80.5. PCT Rules support this conclusion. Accordingly, the commencement date is Tuesday, May 31, 2005. The over three year period begins on June 1, 2008 and ends on January 25, 2011, the date of issuance of the patent, and is 969 days.

Accordingly, no changes to the patent term adjustment will be made. It remains 1285 days -- 777 days of A delay + 969 days of B delay - 422 days of overlap - 39 days of Applicant delay.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE JANSSON FIRM
3616 FAR WEST BLVD
STE 117-314
AUSTIN TX 78731

MAILED
SEP 15 2010
OFFICE OF PETITIONS

In re Patent No. 7,776,220	:	
Issued: August 17, 2010	:	
Application No. 10/536,853	:	DECISION ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. 103.001	:	

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

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

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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

MAILED

AUG 30 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Kuiper et al.	:	
Application No. 10/536,922	:	
Filed: May 31, 2005	:	
Attorney Docket No. NL 030003	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 27, 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 the Issue Fee Transmittal with payment of the $1510.00 issue fee and the $300.00 publication fee, (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 the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta GA 30309-3996

MAILED

JUL 11 2011

PCT LEGAL ADMINISTRATION

In re Application of
BUSCH, et al.
Application No.: 10/537,141
PCT No.: PCT/US2003/038118
Int. Filing Date: 02 December 2003
Priority Date: 02 December 2002
Attorney Docket No.: 24004-0018
For: COMPOSITION AND METHOD FOR TREATING PLANT FUNGAL DISEASE

DECISION ON PETITION

UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. §1.47(a)" filed 08 April 2011 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.497(d) to delete Peter Gouldthorpe as an inventor in the application.

BACKGROUND

On 13 November 2006, applicant filed a combined declaration and power of attorney listing and executed by Fred Busch and Steve Burwell as inventors. The declaration did not list Peter Gouldthorpe who was identified as an inventor on the published international application.

On 11 January 2007, applicant was mailed a "NOTICE OF ACCEPTANCE" (Form PCT/DO/EO/903).

On 08 April 2011, applicant filed a petition under 37 CFR 1.47(a) seeking to remove Peter Gouldthorpe as an inventor in the application. The petition was filed under 37 CFR 1.47(a) "in view of Mr. Gouldthorpe's refusal to execute a statement as required under 37 CFR 1.497(d)(1)."

DISCUSSION

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(h); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant satisfied items (1), (3) and (4) listed above.

As to item (2), as detailed in applicant's petition, applicant has not provided a statement from inventor Gouldthorpe consenting to his removal from the application. As such, applicant has referenced 37 CFR 1.47 and paid the $200.00 petition fee required for such a petition. For reasons discussed below, 37 CFR 1.47 does not apply to the present situation and $70.00 will be refunded to applicant. The petition fee for proceeding pursuant to 37 CFR 1.497 is $130.00

The Manual of Patent Examining Procedure (MPEP) section 201.03 explains that:

> In certain instances where the statement of the lack of deceptive intent of the inventor to be added or deleted cannot be obtained, a petition under 37 CFR 1.183 requesting waiver of that requirement may be possible.
>
> In those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party 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 statements from each originally named inventor**. (Boldness added)
>
> An available remedy to obtain correction of inventorship where waiver of a required statement is not available to correct the inventorship in a particular application is to refile the application naming the correct inventive entity. A request under 37 CFR 1.48(a) would not then be required in the newly filed application as no correction would be needed. Furthermore, a request under 37 CFR 1.48(a) would also not be required in the prior application that was refiled, since the prior application will be abandoned. Benefit of the parent application's filing date would be available under 35 U.S.C. 120 provided there is at least one inventor overlap between the two applications. (Note: a sole-to-sole correction would not obtain benefit under 35 U.S.C. 120).

For the reasons detailed above, applicant's petition under 37 CFR 1.497(d) cannot be granted at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The Form PCT/DO/EO/903 mailed 11 January 2007 is hereby **VACATED**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration or electronically filed utilizing the USPTO's EFS-Web electronic filing system.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/537,204	FAN, JIAN-BING	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				6	435	91.1	91.2						
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33	25.3				
C	1	2	Q	1/68									
C	1	2	P	19/34									
C	0	7	H	21/02									
C	0	7	H	21/04									
C	0	7	H	21/00									

(Assistant Examiner) (Date)		Total Claims Allowed: 6
(Legal Instruments Examiner) (Date)	/Frank W Lu/ 9/28/2011 (Primary Examiner) (Date)	O.G. Print Claim(s): 1 — O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☒ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1	5	31		61		91		121		151		181
2	2	6	32		62		92		122		152		182
3	3		33		63		93		123		153		183
	~~4~~		34		64		94		124		154		184
4	5		35		65		95		125		155		185
	~~6~~		36		66		96		126		156		186
	~~7~~		37		67		97		127		157		187
	~~8~~		38		68		98		128		158		188
	~~9~~		39		69		99		129		159		189
	~~10~~		40		70		100		130		160		190
	~~11~~		41		71		101		131		161		191
	~~12~~		42		72		102		132		162		192
	~~13~~		43		73		103		133		163		193
	~~14~~		44		74		104		134		164		194
	~~15~~		45		75		105		135		165		195
	~~16~~		46		76		106		136		166		196
	~~17~~		47		77		107		137		167		197
	~~18~~		48		78		108		138		168		198
	~~19~~		49		79		109		139		169		199
	~~20~~		50		80		110		140		170		200
	~~21~~		51		81		111		141		171		201
	~~22~~		52		82		112		142		172		202
	~~23~~		53		83		113		143		173		203
	~~24~~		54		84		114		144		174		204
	~~25~~		55		85		115		145		175		205
	~~26~~		56		86		116		146		176		206
	~~27~~		57		87		117		147		177		207
	~~28~~		58		88		118		148		178		208
	~~29~~		59		89		119		149		179		209
	~~30~~		60		90		120		150		180		210

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

CHRISTOPER JOHN HOLLOWAY
WESTDOWN, PORTSMOUTH ROAD
HINDHEAD, SURREY
GU26 -6BQM
UNITED KINGDOM

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Holloway et al.	:	DECISION ON PETITION
Application No. 10/537,340	:	
Filed: December 16, 2005	:	
Title: Cards Safe	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed November 5, 2010.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any renewed petition must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(a)." Extensions of time under 37 CFR §1.136(a) are permitted.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed February 2, 2009. This Notice set a three (3) month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective May 3, 2009. A courtesy Notice of Abandonment was sent on September 17, 2009.

Applicants maintain that the delay was unavoidable as the Office action letter (and Notice of Abandonment) was mailed to the wrong address. Petitioner states that the request for continuing application previously filed contained a change in Power of Attorney and Change of Address form. Petitioner states that the same form requesting a change in address was filed earlier. Petitioner notes that an Official Filing Receipt for the divisional application was mailed with the correct mailing address.

A grantable petition under § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Director 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 unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d). The instant petition fails to meet requirement (3).

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

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case

basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a Applicants has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

The facts and circumstances of the abandonment of this application have been considered. And, it is concluded that Applicants have not met their burden of establishing unavoidable delay. A Request for Withdrawal as Attorney or Agent and Change of Correspondence Address was filed on June 28, 2007. The request was approved by decision mailed November 5, 2007; however, the request to change correspondence address was found not to be acceptable. The correspondence address was changed to that of the first named inventor. This address was used in the mailing of the non-final Office action mailed February 2, 2009.

A thorough review of the record reveals that a change of address from that of the first named inventor was not warranted. No proper change of address is of record in this application. The papers received in the Office on October 6, 2008 included a request for continuing examination, but did not include a change of correspondence address as asserted by petitioner. Further, a change of address filed in a continuing application is not effective to change the address in the parent application. Most importantly, a review of the copy of the power of attorney and correspondence address indication form, which was received in the Office on December 27, 2007, reveals that the form was not proper to change the correspondence address. Specifically, the form was solely signed by inventor Trond Rornes as company secretary. However, the request did not include the 3.73(b) statement necessary for an assignee to take such action. To establish authority to take action in application, an assignee must both show their ownership interest and that the person signing the form has authority to act on behalf of the assignee. In this instance, it could be presumed that as company secretary inventor Rornes has such authority. However, assignee has not established their ownership interest and such cannot be presumed. See MPEP 324. In view thereof, a power of attorney and correspondence indication form as the one provided on petition is not effective to change the correspondence address of record in this application.

Accordingly, the petition must be dismissed.

Applicants are not precluded from seeking revival based on unintentional delay. Applicants are reminded that any delay in filing a petition will be considered in the determination of whether the entire delay was unintentional.

A courtesy copy of this decision is being mailed to the address set forth on the petition. All future correspondence will be mailed to the correspondence address of record until such time as a proper change of correspondence address is filed in this application.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: John Tarcza
5200 Crest Ct.
Jefferson, MD 21755

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Paper No.

JOHN TARCZA
5200 CREST CT
JEFFERSON MO 21755

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of :
Holloway et al. : DECISION ON PETITION
Application No. 10/537,340 :
Filed: December 16, 2005 :
Title: Cards Safe :

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(a) filed June 21, 2011 (made timely by an accompanying petition and fee for extension for response within the fourth month).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any renewed petition must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(a)." Extensions of time under 37 CFR §1.136(a) are permitted.

The above-identified application became abandoned effective May 3, 2009 for failure to file a reply to the non-final Office action mailed February 2, 2009. A courtesy Notice of Abandonment was sent on September 17, 2009.

By decision mailed December 20, 2010, the initial petition filed November 5, 2010 was dismissed. Applicants maintained that the delay was unavoidable as the Office action letter (and Notice of Abandonment) was mailed to the wrong address. The petition was dismissed because petitioner failed to establish that a proper change of address had been timely filed. Of note, applicants were advised that the power of attorney and correspondence address indication form received in the Office on December 27, 2007 was not proper as it was solely signed by inventor Trond Rornes as company secretary and did not include the 3.73(b)

statement necessary for an assignee to take such action. Applicants were advised that to establish authority to take action in application, an assignee must both show their ownership interest and that the person signing the form has authority to act on behalf of the assignee. It could be presumed that as company secretary inventor Rornes has such authority. However, assignee has not established their ownership interest and such cannot be presumed. See MPEP 324. In view thereof, the power of attorney and correspondence indication form was not effective to change the correspondence address of record in this application.

On instant renewed petition, applicants submit a copy of the power of attorney and correspondence address indication form dated August 21, 2007; and a 3.73(b) statement along with a copy of the assignment executed by the inventors. Applicants acknowledge that the assignment and 3.73(b) statement signed in 2011 were not of record when the power of attorney and correspondence address form were filed. Applicants state that they are now filing the assignment for recordation. The belated filing of a 3.73(b) statement and recordation of assignment in 2011 does not serve to make effective action taken by assignee in 2007. Rather, such action by an assignee is effective when properly taken pursuant to 3.71 and when entered by the Office.

Accordingly, the petition is again dismissed.

Having now received the 3.73(b) statement and assignment, the power of attorney and change of correspondence address is made of record.

Applicants are not precluded from seeking revival based on unintentional delay. As previously stated, any delay in filing a petition under 37 CFR 1.137(b) will be considered in the determination of whether the entire delay was unintentional.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

JOHN TARCZA
5200 CREST CT
JEFFERSON MO 21755

MAILED
FEB 29 2012
OFFICE OF PETITIONS

In re Application of :
Holloway et al. : DECISION ON PETITION
Application No. 10/537,340 :
Filed: December 16, 2005 :
Title: Cards Safe :

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(a) and on the alternative PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) both filed January 30, 2012.

The renewed petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned effective May 3, 2009 for failure to file a reply to the non-final Office action mailed February 2, 2009. A courtesy Notice of Abandonment was mailed on September 17, 2009. By decision mailed December 20, 2010, the initial petition under 37 CFR 1.137(a) filed November 5, 2010 was dismissed for failure to establish that the delay was unavoidable. By decision mailed July 27, 2011, the renewed petition under 37 CFR 1.137(a) filed June 21, 2011 was dismissed. Applicants still had not met their burden of establishing unavoidable delay.

In response, applicant filed a renewed petition under 37 CFR 1.137(a) and in the alternative, a petition under 37 CFR 1.137(b)(the less stringent standard of unintentional delay).

This petition was made timely by an accompanying petition for extension of time for response within the fourth month.

Applicants still have not met their burden of establishing that the delay was unavoidable. Applicants have not established that they complied with the rules of practice such that the Office erred in not entering the power of attorney and correspondence address indication form filed December 27, 2007. It is well established that with few exceptions all papers filed in an application must be signed by:

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

It is clear that a power of attorney and correspondence address indication form is among the papers that must be signed by one of the parties listed above. 37 CFR 1.33(a)(2) directly states that:

> If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

Furthermore, with respect to action taken by an assignee, 37 CFR 1.33(b)(3) identifies assignees of record. Further, 37 CFR 3.71(c) provides that an assignee becomes of record 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. Further, 37 CFR 3.73(b)(1) in order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by

submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by 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).

Thus, an assignee must be of record and to be of record, an assignee must provide a signed 3.73(b) statement identifying the assignee and including evidence of a chain of title.

In this instance, the issue is whether the subject power of attorney and correspondence address indication form filed December 27, 2007, was properly signed by an assignee of the entire interest and such assignee had taken action in this application in accordance with 3.71. Applicants want to focus on the fact that the form was signed by Trond Rornes as company secretary of CardsSafe Limited, and that an assignment to the CardsSafe Ltd had been executed as of the date of filing of the form. However, the rule requires that with or prior to taking action that an assignee submit documentary evidence of the chain of title or a statement specifying where such information had been recorded. It is still concluded with regard to this requirement applicant had not met the requirements of the rule for the attorney and correspondence address indication form filed to be entered on December 27, 2007. Failure to comply with the rules of practice is not unavoidable within the meaning of 37 CFR 1.137(a). As such, petitioner has still not met their burden of establishing that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

Nonetheless, the requirements of 37 CFR 1.137(b) have been met. The required reply in the form of an amendment was previously filed on November 5, 2010. The petition includes the petition fee and the required statement of unintentional delay. No terminal disclaimer is required for revival.

Technology Center AU 3673 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment filed November 5, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100922

DATE : 9/20/10

TO SPE OF : ART UNIT 2824 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/537,385 Patent No.: 7,427,555

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

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

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

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
9/22/10

SPE Richard T. Elms **ART UNIT** 2824

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MAILED
NOV 29 2010
OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

Applicants: Kobayashi, et al.
Appl. No.: 10/537,477
International Filing Date: December 5, 2003
Title: NI-BASED SINGLE CRYSTAL SUPER ALLOY
Attorney Docket No.: P/2850-110
Pub. No.: US 2006/0011271 A1
Pub. Date: October 9, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 3, 2010 for the above-identified application.

The request is dismissed.

Applicant request that the application be republished as the original publication contains the incorrect specification, claims and abstract.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable.**" A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on February 3, 2010, was not timely filed under 37 CFR 1.221(b).

Applicant's request is dismissed as moot as the application is abandoned.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of
Zhen Liu et al
Application No. 10/537,590
Filed: June 6, 2005
Attorney Docket No. YOR920020238US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed January 8, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

21 SEP 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of DE PAUW Serial No.: 10/537,673 PCT App. No.: PCT/IB03/05606 Int'l Filing Date: 03 December 2003 Priority Date: 06 December 2002 Attorney Docket No.: NL02136US For: DRIVE APPARATUS FOR FRAME DEFLECTION AND METHOD	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 September 2009 in the above captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicant submitted the proper reply, the executed declaration in compliance with 37 CFR 1.497(a) and (b). The surcharge for filing the oath or declaration after than thirty months after the priority date and petition fee were paid.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 30 September 2009.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Application of
Christopher John Burns, et al.
Application No. 10/537,719
Filed: October 11, 2006
Attorney Docket No. 529282001600

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 10, 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 11, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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 October 14, 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 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 1625 for appropriate action by the Examiner in the normal course of business on the reply received October 14, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Terry Wayne Lockridge et al	:	
Application No. 10/537,750	:	DECISION GRANTING PETITION
Filed: June 6, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PU020488	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 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 January 24, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2477 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/12/10 **Paper No.:** —

TO SPE OF : ART UNIT 1798

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/537899 Patent No.: 7364678 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: _____

SPE 1798

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 19 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sung-Chul CHOI :
Application No. 10/538,078 :
Filed: June 9, 2005 :
Attorney Docket No. 3449-0500PUS1 :

This is a decision on the petition, filed May 17, 2010, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the non-final Office action mailed December 24, 2008. Applicant has: (1) informed the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending units report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met.

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 2893 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED
FEB 29 2012
OFFICE OF PETITIONS

Ronald Cooper
13 Liverpool Road
Brick NJ 08723

In re Application of
Cooper
Application No. 10/538,321
Filed: June 10, 2005
Attorney Docket No. **P - 1548**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 6, 2012, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the restriction/election requirement mailed August 27, 2007, which set a shortened period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on September 28, 2007. A Notice of Abandonment was mailed March 25, 2008.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner 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 unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the previous attorney of record, W. Patrick Quast, failed to file a response to the restriction/election requirement mailed August 27, 2007. Further, petitioner was unable to locate the attorney after discovering that the application was abandoned. Petitioner also states that the USPTO informed petitioner that, until the power of attorney to Mr. Quast was revoked, applicant could not file a reply to the restriction/election requirement.

With regard to item (3), petitioner argument assumes that only the actions or inactions of Mr. Quast, in his capacity as attorney of record, need be examined to determine if the delay in responding to the election/restriction requirement was unavoidable. Petitioner's argument is unpersuasive. It is again noted that the unavoidable standard requires that petitioner establish, by evidentiary showing, that all relevant persons acted reasonably and prudently relative to the prosecution of the application and despite their actions the application was unavoidably abandoned. At the time of the abandonment of the application, power of attorney was granted to Mr. Quast, and the petition makes clear that it was Mr. Quast's responsibility to file a response to the August 27, 2007, Office action. Accordingly, it is largely Mr. Quast's actions or inactions that must be examined relative to whether the delay in responding to the Office action was unavoidable. The paper revoking the power of attorney to Mr. Quast was not filed until April 2, 2010. Accordingly, the renewed petition should address the delay of Mr. Quast. Specifically, petitioner must explain the reason Mr. Quast failed to respond to the restriction/election requirement and failed to contact petitioner thereafter. This explanation must make a showing of unavoidable delay as to Mr. Quast's actions or inactions that resulted in the abandonment of the application.

It is further noted that the sole inventor usually retains the authority to review the prosecution of the patent application, make filings, and make inquiries into the status of the application, notwithstanding that a power of attorney has been granted in the application. While petitioner maintains that petitioner's delay was unavoidable, petitioner has not established that petitioner took any timely steps to intervene in the application's prosecution when petitioner discovered that something may have been amiss in Mr. Quast's prosecution of the application. Even were petitioner's actions or inactions alone to be considered in disposition of the petition, petitioner has not established that petitioner's entire delay—from the due date for the reply to the restriction/election requirement (September 27, 2007) until the filing of a grantable petition—was unavoidable.

Further, it is noted that 37 CFR 1.31 provides that:

> [a]n applicant for patent may file and prosecute his or her own case, or he or she may give power of attorney so as to be represented by one or more patent practitioners or joint inventors. The United States Patent and Trademark Office cannot aid in the selection of a patent practitioner.

The above-cited section of the United States Code of Federal Regulations makes clear that the Office in no way endorses any patent practitioner. The list of registered agents provided by the Office should not be interpreted as an endorsement of the practitioners and is only a notification that the named persons have fulfilled the requirements registration with the Office as set forth in 37 CFR 11.6 and 37 CFR 11.7. Applicants are not required to choose any person from this list in order to file and prosecute a patent application. It is, therefore, the responsibility of every applicant that chooses to use the services of a registered patent agent to use due diligence in making this selection and continuing the services of the registered agent; the USPTO does not make any recommendation in either matter. It is regrettable when services of the freely chosen registered practitioner do not satisfy the applicant. Notwithstanding, said failure is not imputed to the Office and does not relieve petitioner of the burden levied by 37 CFR 1.137(a) of establishing that the entire delay of all relevant parties, including the applicant and the attorney to whom power of attorney was given, was unavoidable. Petitioner is required to state when petitioner discovered the application was abandoned and that petitioner made a diligent effort to revive the application once the abandonment was discovered. Petitioner is reminded that a successful petition under 37 CFR 1.137(a) requires that petitioner make a showing, by statements and documentary evidence, that the entire delay in filing a timely response was unavoidable—from the due date for the response until the filing of a grantable petition.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,860.00 for a large entity and $930.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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APR 28 2011

OFFICE OF PETITIONS

BATTELLE MEMORIAL INSTITUTE
505 KING AVENUE
COLUMBUS, OH 43201-2693

In re Application of
Robert R. Boyd, et al.
Application No. 10/538,459
Filed: December 12, 2007
Attorney Docket No.: 22198(2)US

ON PETITION

This is a decision in response to the petition, filed March 10, 2011, 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 August 25, 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 November 25, 2010. This decision precedes the mailing of a Notice of Abandonment. On March 10, 2011, the present petition was filed.

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 Richard M. Klein appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Attorney Klein 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 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) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3773 for appropriate action by the Examiner in the normal course of business on the response filed March 10, 2011.

[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.

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: RICHARD M. KLEIN
THE HALLE BUILDING, 5TH FLOOR
1228 EUCLID AVENUE
CLEVELAND, OH 44115-1843

UNITED STATES 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. 7273626
Issue Date: September 25,2007
Application No. 10538464
Filed: June 10,2005
Attorney Docket No. 4544-051520

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

This is a decision on the electronic petition, filed January 25,2012 ,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 January 25,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,273,626	2007-09-25	10/538,464	2005-06-10	4544-051520

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	/Nathan J. Prepelka/	Date (YYYY-MM-DD)	2012-01-25
Name	Nathan J. Prepelka	Registration Number	43016

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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2500 BROWN & WILLIAMSON TOWER
(401 S. 4th Street, Suite
2500)
LOUISVILLE KY 40202

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DEC 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Woods	:	
Application No. 10/538,516	:	ON APPLICATION FOR
Filed: August 8, 2006	:	PATENT TERM ADJUSTMENT
Docket No. RD 443	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) AND 35 U.S.C. § 154, filed September 10, 2010. Applicant submits that the current patent term adjustment should be six hundred eighty-one (681) days, not six hundred seventy-four (674) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

Applicant disputes the period of reduction of 674 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. Applicants contend the period of reduction should be 681 days.

The application for patent term adjustment is **DISMISSED**.

On June 10, 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 674 days.

Applicant disputes the period of adjustment of 674 days for Office delay in mailing 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. Applicant contends the period of reduction should be 681 days. Applicant argues that August 1,

2006 should be the date from which the 14 month period is calculated. The Office calculated the 14 month period from August 8, 2006, which is the completion date.

Applicant is informed that the date of completion of all 35 U.S.C. 371 requirements is relevant for purposes of patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)(II) and 37 CFR 1.702(a)(1) when the Office has failed to mail a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than 14 months after the date on which the requirements under 35 U.S.C. 371 were fulfilled. This date is the latest of:

(A) the date of submission of the basic national fee;
(B) the date of submission or communication of the copy of the international application;
(C) the date of submission of the translation of the international application if the international application is not in the English language;
(D) the date of submission of an oath or declaration of the inventor in compliance with 35 U.S.C. 371(c)4)
(E) the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(f) if requested prior to 30 months from the priority date;
(F) if a request for early processing has not been requested prior to 30 months from the priority date, the date of submission of any translation of the annexes to the international preliminary examination report if the translation of the annexes are filed within the time period set in a Notification of Missing Requirements requiring either an English translation of the international application or an oath or declaration; and
(G) the date of submission of any surcharge for submitting the oath or declaration later than 30 months form the priority date.

The June 9, 2005 declaration was not acceptable because it failed to identify the PCT application number in the body of the declaration. Nothing was filed on August 1, 2006, so it is unknown why this was listed as the Date of Receipt of 35 U.S.C. 371(1)(c)(1), (c)(2) and (c)(4) requirements on the 371 ACCEPTANCE LETTER.

The date of completion in this application is August 8, 2006. It is the date that applicants filed an acceptable oath or

declaration and submitted the $130.00 late declaration surcharge. These are the latest of the above-listed events.

Therefore, entry of the period of reduction of 674 days (from October 9, 2007, which is the date after 14 months after the date of completion, to August 12, 2009, the date a non-final Office action was mailed) was warranted.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 674 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ALSTOM Power Inc.
200 Great Pond Drive
P.O. Box 500
WINDSOR CT 06095

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NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:
Malaubier, et al.	: DECISION ON PETITION
Application No. 10/538,701	:
Filed: November 18, 2005	:
Atty. Dkt. No.: VA30429	:

This decision is in response to the petition under 37 CFR 1.137(b), filed October 5, 2010.

The petition is **GRANTED**.

The application became abandoned September 3, 2009 for failure to timely submit a proper reply to the non-final Office action mailed June 2, 2009. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed August 11, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 3743 for further processing.

Telephone inquiries concerning 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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ALEXANDRIA VA 22314

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JUN 17 2011

OFFICE OF PETITIONS

In re Application of
Stefan Neumeyer
Application No. 10/538,718
Filed: September 28, 2006
Attorney Docket No: A-9598

ON PETITION

This is a decision on the petition filed June 15, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 11, 2010 for failure to timely reply to the non-Final Office Action mailed March 10, 2010 within the shortened statutory period of three months set for reply. Accordingly, a Notice of Abandonment was mailed January 4, 2011.

This matter is being referred to Technology Center 3776 for appropriate action on the amendment filed June 15, 2011.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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OFFICE OF PETITIONS

In re Patent of Giovanola et al.	:	DECISION ON REQUEST
Patent No. 7,595,004	:	FOR RECONSIDERATION OF
Issue Date: September 29, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/538,743	:	AND NOTICE OF INTENT TO
Filing Date: June 14, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 82652-243259	:	CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Calculation Under 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4)" filed May 21, 2010, requesting review of the patent term adjustment set forth in a decision mailed April 21, 2010. The petition indicates the correct patent term adjustment appears to be 1,112 days, not 1,184 days.

The petition is **GRANTED**.

The patent issued on September 29, 2009. The patent set forth a patent term adjustment of 681 days, which is 711 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") reduced by 30 days of delay under 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay").

Patentees filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth* ("Wyeth Request") on February 17, 2010.

The Office issued a decision in response to the February 17, 2010 request on April 21, 2010. The decision stated a certificate of correction setting forth a patent term adjustment of 1,184 days would be issued unless a request for reconsideration of the decision was filed within the longer of one month or 30 days from the issuance date of the decision.

The patent term adjustment of 1,184 days set forth in the April 21, 2010 decision was the sum of 711 days of A Delay and 503 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") reduced by 30 days of Applicant Delay.

The instant request was filed May 21, 2010. The instant request asserts the correct patent term adjustment is 1,112 days.

The Office has reviewed the record and agrees the correct patent term adjustment is 1,112 days.

Although the request authorizes the Office to charge any necessary fees to Deposit Account No. 22-0261, the request states Patentees do not believe any fees are due.

As stated in the April 21, 2010 decision, any request for reconsideration of the patent term calculation set forth in the decision must include the fee set forth in 37 C.F.R. § 1.18(e). Therefore, payment of the $200 fee set forth in 37 C.F.R. § 1.18(e) is required.

If Patentees had filed a letter informing the Office the patent term adjustment determination on the April 21, 2010 decision appeared to be greater than appropriate, a fee would not be necessary because the Office could simply place the letter in the file without devoting resources to reviewing the merits of the letter.[1] However, Patentees did not file a letter. Instead, Patentees filed a request for the Office to reconsider the patent term adjustment determination set forth in the April 21, 2010 decision. As a result, the Office was required to address the merits of the request.

In view of the prior discussion, the $200 fee has been charged to Deposit Account No. 22-0261.

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 **one thousand one hundred twelve (1112)** 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

[1] *See* Treatment of Letters Stating that the USPTO's Patent Term Adjustment Determination is Greater than What the Applicant or Patentee Believes is Appropriate, 75 Fed. Reg. 42079 (July 20, 2010), 1357 Off. Gaz. Pat. Office 262 (August 24, 2010).

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,595,004 B2
APPLICATION NO.	:	10/538,743
DATED	:	September 29, 2009
INVENTOR(S)	:	Lucia Giovanola 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 681 days.

Delete the phrase "by 681 days" and insert -- by 1112 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/12/11

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction for Appl. No.: 10538763 Patent No.: 8027813

CofC mailroom date: 12/02/11

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 in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

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

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

Comments: _____

_____

_____

_____

_____

[signature]	2128
SPE	**Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/06/2010

Applicant	: Joachim Schmitt	: DECISION ON REQUEST FOR
Patent Number	: 7655784	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/538,840	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2006	: 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

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

Decision Date:	February 1, 2012
In re Patent No.	8084575
Issue Date:	27-Dec-2011
Application No	10538985
Filed date	18-Aug-2006
Attorney Docket No	VOSS:008US/10506359

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed February 1, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

Julius-Maximilians-Universitat

Change Assignment Information to the Following:

Julius-Maximilians-Universität Würzburg

The request is GRANTED.

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

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))**
Application Number	10538985
Filing Date	18-Aug-2006
First Named Inventor	Moritz Bunemann
Attorney Docket Number	VOSS:008US/10506359
Title of Invention	MILLISECOND ACTIVATION SWITCH FOR SEVEN-TRANSMEMBRANE PROTEINS

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 8084575 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

☒ I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Correction of Assignee

Current Assignment Listed (240 char limit)
The assignment information is currently listed as:

Julius-Maximilians-Universitat

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

Julius-Maximilians-Universität Würzburg

☒ As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).

- ◯ Applicant(s) status remains as OTHER THAN small entity.
- ◯ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ◯ Applicant(s) status remains as SMALL ENTITY.
- ◉ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ◯ A sole inventor
- ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ◯ A joint inventor; all of whom are signing this request
- ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/David L. Parker/
Name	David L. Parker
Registration Number, if applicable	32165

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Herve Gouessant et al.	:	
Application No. 10/539,018	:	DECISION ON PETITION
Filed: November 30, 2005	:	
Attorney Docket No. 0579-1094	:	

This is a decision on the Letter, filed May 26, 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application. The required petition fee has been charged to petitioner's deposit account.

The petition is **dismissed**.

Petitioner requests that the amendment filed under EFS ID 7688756 on May 26, 2010 be expunged from the record. Petitioner does not indicate the reason for this expungement request other than that a substituted amendment was filed.

The petition is deficient because there is no statement that:

(B) 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;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

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

Carl Friedman
Petitions Examiner
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	10539062
Filing Date	11-Apr-2006
First Named Inventor	Pilgrim Beart
Art Unit	2618
Examiner Name	ANDREW WENDELL
Attorney Docket Number	120270.129223
Title	ADAPTING PORTABLE ELECTRICAL DEVICES TO RECEIVE POWER WIRELESSLY

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	/Dustin H. Shunta/
Name	Dustin H. Shunta
Registration Number	56507

UNITED STATES 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 22,2011

In re Application of :

Pilgrim Beart

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10539062

Filed : 11-Apr-2006

Attorney Docket No : 120270.129223

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 22,2011 , 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 2618 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	10539062
Filing Date	11-Apr-2006
First Named Inventor	Pilgrim Beart
Art Unit	2618
Examiner Name	ANDREW WENDELL
Attorney Docket Number	120270.129223
Title	ADAPTING PORTABLE ELECTRICAL DEVICES TO RECEIVE POWER WIRELESSLY

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	/Dustin H. Shunta/
Name	Dustin H. Shunta
Registration Number	56507

UNITED STATES 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 30,2011

In re Application of :

Pilgrim Beart

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10539062

Filed : 11-Apr-2006

Attorney Docket No : 120270.129223

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 30,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2618 for processing of the request for continuing examination under 37 CFR 1.114 .

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.
10/539,107	06/15/2005	Tomasz Heyduk	102364	2295

27148 7590 01/28/2011
POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

EXAMINER
BHAT, NARAYAN KAMESHWAR

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
01/28/2011	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):

uspt@polsinelli.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

January 26, 2011

POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

In re Application of	:	
Heyduk, Tomasz	:	**DECISION ON PETITION**
Application No. 10/539,107	:	
Filed: 06/15/2005	:	
Attorney Docket No. 102364	:	

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 15, 2005.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

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.
10/539,107	06/15/2005	Tomasz Heyduk	102364	2295

7590 04/08/2011
POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

EXAMINER
BHAT, NARAYAN KAMESHWAR

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
04/08/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 6, 2011

POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

In re Application of	:	
Heyduk, Tomasz et al	:	**DECISION ON PETITION**
Application No. 10/539,107	:	
Filed: 06/15/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 102364	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 24, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Timothy E. Tinkler
7528 Auburn Road
Concord OH 44077

MAILED

AUG 24 2010

OFFICE OF PETITIONS

In re Application of :
Andrew Timothy Boam et al. :
Application No. 10/539,202 : ON PETITION
Filed: January 26, 2006 :
Attorney Docket No. **056258-5107** :

This is a decision on the petition under 37 CFR 1.137(a), filed July 8, 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, November 10, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 11, 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; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Technology Center Art Unit 1623.

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

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100830

DATE : August 30, 2010

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7,566,816

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 Certificate of Correction is approved given that the changes are correcting typographical errors. /EM/

Attn: Magdalene Talley

/Anne Marie Grunberg/
Supervisory Patent Examiner.Art Unit 1638

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

MAILED

JAN 20 2011

OFFICE OF PETITIONS

In re Patent of Knut Adermann et al.	:	DECISION ON REQUEST
Patent No. 7,655,629	:	FOR RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/539,627	:	AND NOTICE OF INTENT TO
Filing Date: September 19, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. P70650US0	:	CORRECTION

This is a decision addressing the request filed June 7, 2010. Patentees request the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred and six (706) 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 seven hundred and six (706) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction setting forth a patent term adjustment determination of 523 days. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Therefore, Patentees are hereby given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to file any response to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136.

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

The Office issued Patent No. 7,655,629 on February 2, 2010. The patent set forth a patent term adjustment determination of 500 days.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed May 4, 2010.

On May 13, 2010, the Office issued a decision in response to the May 4, 2010 request. The decision stated the Office would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by 450 days unless a request for reconsideration of the decision was filed within the longer of one month or 30 days from the issuance date of the decision.

The instant request for reconsideration was filed June 7, 2010. The request asserts the 450-day patent term adjustment determination is incorrect as a result of the Office improperly determining the number of days consumed by appellate review.

A certificate of correction indicating the term of the patent is extended or adjusted by 450 days was issued November 23, 2010.

Delay Under 37 C.F.R. § 1.703(a) ("A Delay")

The period of A Delay is not in dispute.

The period of A Delay includes:

1. A 106-day period of delay under 37 C.F.R. § 1.703(a)(1),
2. A 14-day period of delay under 37 C.F.R. § 1.703(a)(2), and
3. A 271-day period of delay under 37 C.F.R. § 1.703(a)(3).

The total period of A Delay is 391 days.

Delay Under 37 C.F.R. § 1.703(b) ("B Delay")

The number of days beginning June 21, 2008, the day after the date three years after the national stage commenced, and ending on February 2, 2010, the date the patent issued, is 530 days. However, the period of B Delay is not 530 days.

Pursuant to 37 C.F.R. § 1.703(b)(4), the period of B Delay does not include any time consumed by appellate review.

Patentees assert the period of time consumed by appellate review is 35 days.

The Office agrees the period of time consumed by appellate review is 35 days. In other words, the period of B Delay is 495 days.

Overlap Between the Period of A Delay and the Period of B Delay

The instant request does not include any discussion of the fact the periods of A Delay and B Delay overlap.

The total period of Office delay in this case is the sum of the period of A Delay and B Delay to the extent the periods do not overlap. *See* 37 C.F.R. § 1.703(f).

A review of the record indicates the 271-day period of A delay under 37 C.F.R. § 1.703(a)(3) overlaps with 271 days of the period of B Delay. In other words, the periods of A Delay and B Delay overlap by 271 days.

Delay Under 37 C.F.R. § 1.704 ("Applicant Delay")

The period of Applicant Delay is 92 days and is not in dispute.

Conclusion

The total period of A Delay is 391 days.

The period of B Delay is 495 days.

The periods of A Delay and B Delay overlap by 271 days.

The period of Applicant Delay is 92 days.

The patent term adjustment is 523 days, which is the sum of 391 days of A Delay and 495 days of B Delay reduced by 271 days of overlap between the periods of A Delay and B Delay and reduced by 92 days of Applicant Delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). Patentees request the $200.00 fee be refunded. However, the fee is required for the Office to reconsider a patent term adjustment determination set forth in a decision issued in response to a "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*." Therefore, the fee will not be refunded.

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 twenty-three (523)** 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.	:	7,655,629 B2
APPLICATION NO.	:	10/539,627
DATED	:	February 2, 2010
INVENTOR(S)	:	Knut Adermann 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:

The first or sole Notice should read --

Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 523 days.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent of Knut Adermann et al.	:	DECISION ON REQUEST
Patent No. 7,655,629	:	FOR RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/539,627	:	AND NOTICE OF INTENT TO
371(c) Date: September 19, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. P70650US0	:	CORRECTION

This is a decision in response to the paper filed February 22, 2011, which is being treated as a renewed petition under 37 C.F.R. § 1.705(d).

The petition is **dismissed**.

Background

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed May 4, 2010.

The Office issued a decision on the May 4, 2010 request on May 13, 2010. The patent term adjustment determination in the decision was based on the following determinations:

1. The total period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 391 days;
2. The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 301 days,
3. The periods of A Delay and B Delay overlap by 150 days, and
4. The total period of delay under 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay") is 92 days.

The May 13, 2010 decision set forth a patent term adjustment determination of 450 days, which is the sum of 391 days of A Delay and 301 days of B Delay reduced by 150 days of overlap between the periods of A Delay and B Delay and reduced by 92 days of Applicant Delay.

Patentees filed a request for reconsideration on June 7, 2010, which asserted the Office improperly calculated the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") and asserted "the correct total PTA *Wyeth* recalculation [is] 706 days (450+256)."

The Office issued a decision on the June 7, 2010 request on January 20, 2011. The decision Office recognized the Office had improperly calculated the period of B Delay. The decision also stated,

> The instant request does not include any discussion of the fact the periods of A Delay [delay under 35 U.S.C. § 154(b)(1)(A)] and B Delay overlap.
>
> The total period of Office delay in this case is the sum of the period of A Delay and B Delay to the extent the periods do not overlap. *See* 37 C.F.R. § 1.703(f).
>
> A review of the record indicates the 271-day period of A delay under 37 C.F.R. § 1.703(a)(3) overlaps with 271 days of the period of B Delay. In other words, the periods of A Delay and B Delay overlap by 271 days....
>
> The patent term adjustment is 523 days, which is the sum of 391 days of A Delay and 495 days of B Delay reduced by 271 days of overlap between the periods of A Delay and B Delay and reduced by 92 days of Applicant Delay.

The instant petition argues the Office should not have considered the issue of overlap when addressing the June 7, 2010 request.

Analysis

The June 7, 2010 request assumed proof the period of B Delay should have included an additional X days is the equivalent of proof the patent term adjustment should be increased by X days. However, such an assumption is incorrect and the Office was *not* required to treat the assumption as true.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of the period of A Delay and the period of B Delay to the extent the periods do not overlap. Therefore, in order to determine the impact including additional days as part of the period of B Delay will have on the patent term adjustment, one *must* consider the extent to which the additional days overlap with the period of A Delay.

Since one cannot determine the impact increasing the number of days of B Delay should have on the overall patent term adjustment without considering the extent to which the periods of A Delay and B Delay overlap, the Office acted properly when considering the issue of overlap.

The petition appears to argue the Office is statutorily barred from considering more than one request for reconsideration of a patent term adjustment determination despite the fact the prior decision clearly stated Patentees could request reconsideration of the decision *and* despite the fact Patentees have filed the instant petition requesting reconsideration of the prior decision. The Office acknowledges 35 U.S.C. § 154(b)(3)(B)(ii) states the Office shall "provide the applicant one opportunity to request reconsideration of any patent term adjustment determination." However, the Office does not interpret the statute as stating the Office shall provide an application with *only* one opportunity to request reconsideration.

The petition states the May 13, 2010 decision did not explicitly mention the issue of overlap and assumes the Office did not determine the periods of A Delay and B Delay overlap when the Office issued the decision. However, when the Office issued the decision, the Office determined the periods of A Delay and B Delay overlap by 150 days. The Office agrees the decision did not explicitly address the issue of overlap. However, the decision also did not explicitly address the periods of A Delay, B Delay, and Applicant Delay.

In view of the prior discussion, the Office is not persuaded the Office was prohibited from considering the issue of overlap or that consideration of the issue was improper.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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AUG 3 1 2010

OFFICE OF PETITIONS

Intervet/Schering-Plough
Animal Health
Patent Dept. K-6-1, 1990
2000 Galloping Hill Road
Kenilworth NJ 07033-0530

In re Application of	:	
Cox et al.	:	
Application No. 10/539,672	:	
Filed: June 14, 2005	:	ON APPLICATION FOR
Attorney Docket No. I-2002.024	:	PATENT TERM ADJUSTMENT
US	:	
Title: MASTITIS TREATMENT	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" filed April 21, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred two (602) days, not two hundred fifty-six (256) 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-16-10

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/539740 Patent No.: 7,357581

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

FOR IFW FILES: Check Drawings

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

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** _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-17-11

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/539759 Patent No.: 7608596

CofC mailroom date: 08-08-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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.

XX☒ **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.

SPE /S A. Jiang/ **Art Unit** 1623

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Commissariat a l'Energie Atomique/BHGL
P.O. Box 10395
Chicago IL 60610

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JUN 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,682,515 :
Issue Date: March 23, 2010 :
Application No. 10/539,875 : ON PETITION
Filed: December 13, 2005 :
Attorney Docket No. 9905/29 :

This is a decision on the petition filed June 10, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

A petition under 37 CFR 3.81 requires a fee of $130. As such, this fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/04/2010

Applicant	: Neville Hedrick	: DECISION ON REQUEST FOR
Patent Number	: 7645096	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,915	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2005	: 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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,955	06/17/2005	Horst Glatz	5200.P0067US	8659

23474 7590 03/18/2011
FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO, MI 49008-1631

EXAMINER
CHANG, RICK KILTAE

ART UNIT	PAPER NUMBER
3726	

MAIL DATE	DELIVERY MODE
03/18/2011	PAPER

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

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

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FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

In re Application of:
GLATZ, HORST et al
Serial No. 10/539,955
Filed: June 17, 2005
Docket: 5200.P0067US
Title: METHOD AND PRODUCITON LINE FOR RATIONALLY PRODUCING U-SHAPED HEAT EXCHANGE TUBES

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on March 7, 2011 by which petitioner requests reconsideration and withdrawal of the restriction requirement based on constructive election mailed Nov. 12, 2010 and that non-elected claims 19-23 be rejoined and examined on the merits. Claims 2-5 and 18 were held to be constructively elected and examined. Claims 19-23 were withdrawn from consideration due to non-elected invention. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **granted.**

In finding petitioner's points of argument persuasive and after consulting with the examiner, the requested relief is granted. The restriction requirement mailed on Nov. 2, 2010 is hereby withdrawn. Claims 19-23 will be rejoined with the elected invention. The examiner has been requested to issue an Office action to rejoin and treat the non-elected claims 19-23 on the merits as soon as possible.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3726 for further consideration of non-elected claims 19-23 prior to further appeal proceeding. 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

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KING & SPALDING LLP
P.O. BOX 889
BELMONT CA 94002-0889

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,728,191	:	DECISION ON REQUEST
Masaharu Kuroda	:	FOR
Issue Date: 06/01/2010	:	RECONSIDERATION OF
Application No. 10/539,992	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/12/2006	:	
Atty Docket No.	:	
59150-8035	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d) AFTER PATENT ISSUANCE, filed on June 19, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least one thousand two hundred twenty-nine (1229) 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 nine hundred thirty-four (934) days.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date under 35 U.S.C. 371(b) of June 20, 2005, which is 30 months after the priority date of December 20, 2002. As such, the "B" delay period begins on June 21, 2008, the day after the date three years after the commencement date under 35 U.S.C. 371 and ends on June 1, 2010, the date the application issued as a patent, and is 711 days.

Patentee argues that the period of Office delay under 37 CFR 1.702(a)(1) should be calculated from June 20, 2005, the date the application commenced the national stage, rather than April 12, 2006, and that, therefore, the period of Office delay under 37 CFR 1.702(a)(1) is 668 days, rather than 373 days as calculated by the Office.

Patentee's argument has been considered, but is not persuasive. 37 CFR 1.702(a)(1) states 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:

> (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**.
>
> (emphasis added)

While this application commenced the national stage on June 20, 2005, the requirements of 35 U.S.C. 371 were not fulfilled until April 12, 2006. Accordingly, the period of Office delay under § 1.702(a)(1) is the period beginning on the day after the date fourteen months after date the application fulfilled the requirements of 35 U.S.C. 371. On June 19, 2008, fourteen months and 373 days after the day after the date the application fulfilled the requirements of 35 U.S.C. 371, April 12, 2006, an Office action was mailed. Accordingly, the delay under § 1.702(a)(1) is 373 days.

Lastly, it is noted that patentee states that the total period of reduction due to applicant delay is 149 (122 + 17 + 10) days, rather than 150 days as calculated by the Office. However, on October 20, 2009, an Office action was mailed. On January 21, 2010, three months and one (1) day after the date the Office action was mailed, a reply was filed. Accordingly, a (1) day period of reduction for applicant delay was assessed pursuant to § 1.704(b). Accordingly, the total period of reduction for applicant delay is 150 (122 + 17 + 1 + 10) days.

Therefore, no change will be made to the patent term adjustment of 934 (373 days Office delay + 711 days three years delay – 150 days of applicant delay) days indicated on the face of the issued patent.

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) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,658,997	:	
Issue Date : February 9, 2010	:	
Application No. 10/540,379	:	ON PETITION
Filed: June 23, 2005	:	
Attorney Docket No. 65,361-001	:	

This is a decision on the petition, filed June 24, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's information on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue with the correct assignee information.

The request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 27 2010

OFFICE OF PETITIONS

HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

In re Patent No. 7,658,997	:	
Issue Date: February 9, 2010	:	
Application No. 10/540,379	:	ON PETITION
Filed: June 23, 2005	:	
Attorney Docket No. 65,361-001	:	

This is a decision on the petition filed August 30, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane 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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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JUN 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Pal Okros	:	
Application No. 10/540,475	:	DECISION ON PETITION
Filed: January 3, 2006	:	TO WITHDRAW
Attorney Docket No. 3347-0103PUS1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 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. 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 Marc S. Weiner on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to timely file an appeal brief two (2) months after the filing of the Notice of Appeal on October 22, 2010.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Mr. Pal Okros**
Csengettyu u.
Budapest, H-1098
Hungary

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/540,475	01/03/2006	Pal Okros	3347-0103PUS1

CONFIRMATION NO. 2980

POWER OF ATTORNEY NOTICE

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000048084001

Date Mailed: 06/07/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/11/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

MAILED

NOV 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,910,711
Issue Date: March 22, 2011
Application No. 10/540,539
Filed: October 4, 2006
Attorney Docket Number: 32721.002.00

ON PETITION

This is a decision on the petition, filed November 9, 2011, under, 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

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 March 22, 2011, 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, charged to deposit account no. 50-0911, have 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)

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FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104-3800

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FEB 25 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Koh Ishigami et al :
Application No. 10/540,562 :
Filed: November 16, 2005 :
Attorney Docket No. FIXING METHOD AND FIXING DEVICE WITH SPECIFIED TEMPERATURE RELATIONSHIPS FOR RECORDING MEDIUM

This is a decision on the petition, filed February 24, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 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 2852 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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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Christian DAVID et al.	:	
Application No. 10/540,754	:	DECISION ON PETITION
Filed: June 24, 2005	:	
Attorney Docket No. 2003P07571	:	

This is a decision on the petition, filed July 29, 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) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Eulitha AG and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Eulitha AG.

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* MPEP 1309, subsection II and Official Gazette of June 22, 2004

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee as set forth in § 1.20(a)) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Eulitha AG has been recorded. Therefore, upon submission of the required certificate of correction and fee, 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 Eulitha AG was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth** Eulitha AG, **as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272- 4231. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/Thurman K. Page/
Thurman K. Page
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,944	06/29/2005	Takao Watanabe	1152-0319PUS1	3801

2292 7590 06/01/2011
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
MARSH, STEVEN M

ART UNIT	PAPER NUMBER
3632	

NOTIFICATION DATE	DELIVERY MODE
06/01/2011	ELECTRONIC

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

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

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

mailroom@bskb.com

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MAY 3 1 2011

Birch Steward Kolasch & Birch
PO Box 747
Falls Church, VA 22040-0747

In re application of Takao Watanbe Application No. 10/540,944 Filed: June 29, 2005 For: THIN DESIGN DISPLAY APPARATUS AND DISPLAY UNIT DETACHMENT METHOD	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on January 6, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

The petition filed January 6, 2006 fails to adequately meet requirements (C) and (D) above. Petitioner indicates that a search was performed in a counterpart international or foreign application. However, this does not satisfy requirement (C) above. Furthermore, it is indicated that the "claims in this U.S. application are of the same or similar scope as the claims in the International application." MPEP 708.02 requires that applicant submit a statement that a preexamination search of the **claimed invention** was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. Furthermore, it is indicated that the search was carried out in "International Classes G09F 9/00 and HO4N 5/64." This is not sufficient. At a minimum, a search of the U.S. classification system should be performed.

For the above stated reason, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Any inquiry regarding this decision should be directed to Teri Luu at (571) 272-7045.

/Teri P. Luu/
Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

TL/tl: 05/27/11

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 WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Kumar A. TYAGI, et *al.* :
Application No. 10/540,956 : DECISION ON PETITION
Filed: March 13, 2006 : UNDER 37 CFR 1.183
Attorney Docket No. **4544-051956** :

This is a decision on the petition, filed on November 23, 2009 and re-submitted December 18, 2009, under 37 CFR 1.183 for suspension of rules, 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 patent.

The petition under 37 CFR 1.183 is **DISMISSED**.

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner.

Petitioner asserts that the second assignee's name was inadvertently omitted when submitting the Issue fee Transmittal (Form PTOL-85B). Unfortunately, the accidental omission of the assignee is not considered to be an extraordinary situation. Therefore, the requirements of 37 CFR § 3.81 cannot be waived at this time.

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

Petitioner requests issuance of a certificate of correction in the name of:

- University of Delhi, New Delhi (IN) **and**
Department of Biotechnology, New Delhi (IN) -

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

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

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FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,597,887
Issued: October 6, 2009
Application No. 10/540,959
Filed: April 4, 2006
Attorney Docket No. 13751-0055US1
/A184 US 002

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on December 4, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 139 days to 542 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 in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred forty-two (542) days is **GRANTED**.

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-two (542)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,597,887 B2

DATED : October 6, 2009

INVENTOR(S) : Paul D. Rennert

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 (139) days

Delete the phrase "by 139 days" and insert – by 542 days--

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AUG 12 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 Patent No. 7,277,683	:	
Issue Date: October 2, 2007	:	
Application No. 10/541,120	:	ON PETITION
Filed: March 1, 2006	:	
Attorney Docket No. PAT 3291W-2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed July 20, 2011.

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

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

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

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

/A. Kelley-Collier/
Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

MAILED
SEP 23 2010
OFFICE OF PETITIONS

In re Application of.	:	
Moyes et al.	:	
Application No. 10/541,149	:	NOTICE
Filed: March 7, 2006	:	
Attorney Docket No. 3942.05WOUS	:	

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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DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON MA 02110-2131

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application
David L. Kaplan et al.
Application No. 10/541,182
Filed: June 14, 2006
Attorney Docket No.
700355-053462-US

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH filed May 10, 2010. 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).

At the outset, the REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH* was filed using form PTO/SB/131. Petitioner is reminded that form PTO/SB/131 is only to be used to request recalculation of Patent Term Adjustment based upon the fact pattern described in Wyeth and no other issues will be addressed with this type of request. The patent must first issue before any such calculations of the "B" period will occur.

However, 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]

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

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,202	05/10/2006	Nathalie Vast	052737	7646

38834 7590 12/27/2010
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
AMAKWE, TAMRA L

ART UNIT	PAPER NUMBER
1785	

NOTIFICATION DATE	DELIVERY MODE
12/27/2010	ELECTRONIC

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

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patentmail@whda.com

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DEC 27 2010

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Mailed :	:	
In re application of	:	
Nathalie Vast	:	DECISION ON
Serial No. 10/541202	:	PETITION
Filed: May 10, 2006	:	
For: SHEET WITH AN ANTICOPYING, REDUCED OPACITY		

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed June 23, 2009 and made final in the office action mailed October 01, 2009.

On June 23, 2009, a restriction requirement, under 35 U.S.C 121 and 372 was made by the examiner. The restriction requirement set forth two groups. The requirement stated that the inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature *a priori*. Applicant traversed the restriction requirement in a response filed July 20, 2009. The examiner made the requirement final in the non-final office action mailed October 01, 2009.

On October 01, 2010, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the requisite criteria for a proper restriction requirement and the criteria for rejoinder have not been met.

DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/FR03/03874 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B.

To support's applicant's position that the restriction requirement is that the requisite criteria for a proper restriction requirement have not been met, applicant submits that claims 1 and 4 are specifically subcombination B^{sp} and combination AB^{sp}, and directs the Office's attention to MPEP 806.05(c)(I). Applicant also asserts that unity of inventions exists between the inventions

listed as Groups I-II under PCT Rule 13.1 as the inventions of Groups I-II have the same or corresponding special technical feature, and refers the Office to MPEP 1893.03(d). To substantiate the assertion, Applicant notes that the claims listed with the invention of Group II recite a dependency to claim 1 of Group I.

Regarding Applicant's submission that the restriction requirement is improper because the inventions listed as Groups I-II are subcombination and combinations, and that the subcombination is essential to the combination, MPEP 806.05(c) (I), Applicant is reminded that the restriction requirement issued was under 35 U.S.C 121 and 372, not under the U.S. restriction practice provided at MPEP 806.05(c) (I). Hence, this argument is not persuasive.

Regarding Applicant's assertion that the inventions of Groups I-II have the same or corresponding special technical feature, it should be noted that the PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

> "those technical features which each of the claimed inventions, **considered as a whole, makes over the prior art.**" (Emphasis added)

In the instant case, it is noted that the restriction requirement stated that the inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature *a priori*. It is further noted that in response to Applicant's traversal, the examiner found Applicant's traversal unpersuasive because there is lack of unity *a posteriori*. To support the examiner's position, the examiner cited Fan et al. for teaching two-sided printed indicia. The examiner found that the technical feature shared between the groups failed to define a contribution over the prior art.

A review of the restriction requirement, it is found that the requirement is improper in asserting that the inventions of Groups I-II lack the same or corresponding special technical feature. This position is further evidenced by the of the non-final office action mailed to Applicant on October 01, 2009, which recognized that the technical feature shared between the groups is two-sided printed indicia.

It is also found that the non-final office action has incorrectly identified two-sided printed indicia as the technical feature shared between the groups. The technical feature shared between the groups is a paper comprising a screen region comprising an average overall opacity less than the opacity of the vellum part of the paper, wherein said screen region being made up from alternations of vellum mini regions, and have an approximately constant thickness equal to that of the vellum part of the rest of the paper and of the mini regions of reduced opacity because of their smaller thickness compared with the vellum mini regions. In the absence of prior art demonstrating that this shared technical feature fails to provide a contribution over the prior art, the shared technical feature is a special technical feature. In the instant case, the examiner has failed to establish that the inventions lack unity *a posteriori*.

Accordingly, after review of the restriction requirement and the action taken by the examiner in response to Applicant's election, the petition to withdraw the restriction requirement and

rejoinder of all claims to the nonelected invention is **Granted**. The application is being forwarded to the examiner to rejoin all claims to the nonelected invention that depend from or otherwise require all the limitations of an allowable claim and act accordingly.

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

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
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ALAN R. LOUDERMILK
LOUDERMILK & ASSOCIATES
511 N. WASHINGTON AVENUE
MARSHALL, TX 75670

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Alain Georges, et al.	:	
Application No. 10/541,536	:	DECISION GRANTING PETITION
Filed: February 22, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DBT004PCTUS1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 13, 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 March 9, 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 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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Decision Date : April 15,2011

In re Application of :

Chi Cheng

Application No : 10541579

Filed : 06-Jul-2005

Attorney Docket No : AP058-05

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 April 15,2011

The request is **APPROVED.**

The request was signed by David A. Guerra (registration no. 46443) on behalf of all attorneys/agents associated with Customer Number 29689 . All attorneys/agents associated with Cusotmer Number 29689 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 Cheng Chi Wai

Name2

Address 1 1704 EW International Tower

Address 2 120 Texaco Road, Tsuen Wan N.T.

City Hong Kong

State

Postal Code

Country CN

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	10541579
Filing Date	06-Jul-2005
First Named Inventor	Chi Cheng
Art Unit	3635
Examiner Name	JAMES FERENCE
Attorney Docket Number	AP058-05
Title	Composite Sandwich Wall Panel

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 29689

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

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	Cheng Chi Wai
Address	1704 EW International Tower 120 Texaco Road, Tsuen Wan N.T.
City	Hong Kong
State	
Postal Code	
Country	CN

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/David A. Guerra/
Name	David A. Guerra
Registration Number	46443

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,657	03/03/2006	Robert M. Jones	34.US5.PCT	4098

26204 7590 11/12/2010
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
JARRELL, NOBLE E

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
11/12/2010	ELECTRONIC

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

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NOV 12 2010

Eifion Phillips, J. D. D. Phil.
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:
Jones et al	:
Serial No.: 10/541,657	:DECISION ON PETITION
Filed: 3 March 2006	:
Attorney Docket No.: 20750-0007US1	:

This letter is in response to the Petition filed under 37 C.F.R. 1.144 and 1.181 filed on 13 August 2010 and the Petition filed under 37 CFR 1.182 to request expedited review.

BACKGROUND

A summary of the prosecution history may be found in the following two petition decisions:

(i) Petition decision mailed 3 March 2010, which withdrew finality of the Office action mailed 17 December 2009.

(ii) Petition decision dated 4 December 2009 granting in part applicants request for reconsideration of the restriction requirement.

On 13 May 2010, the examiner mailed a final Office action, in which claims 4, 5, 62-66, 79-85, 87-92 and 100 were withdrawn from consideration. The restriction was made final. Claims 1-3, 12-14, 16-61, 73, 74 and 78 were rejected under 35 U.S.C. 112, first paragraph for lack of enablement. No claims were rejected under prior art.

An advisory action was mailed 14 October 2010.

On 13 August 2010, applicants filed the petitions under consideration.

DISCUSSION

The petition and file history have been carefully considered.

This application was filed as a national stage application in compliance with under 35 U.S.C. 371 and as such is subject to PCT unity of invention practice.

Applicants wish to have the restriction requirement withdrawn. Because this application is filed as a national stage application in compliance with 35 USC 371, at each step of prosecution, the examiner should re-assess unity of invention with regard to the claims as pending and the state of the prior art.

It is noted that the examiner has placed the process claims in groups as follows:

XV. A method for controlling or decreasing weight gain, according to Claim 82.

XVI. A method of modulating a RUP3 receptor, according to claim 83.

XVII. A method of modulating a RUP3 receptor, according to claim 84, 85, 87-92.

XVIII. A method of producing a pharmaceutical composition, according to claim 100.

In the restriction requirement, Claims 82- 85, 87-92 were placed into three separate groups. This is unwarranted. All of Claims 82- 85, 87-92 require the technical feature of contacting the RUP3 receptor with the compound of claim 1. Here, Applicants are claiming a product, a process of making the product (claim 100) and a single process of using the product (claims 82-85 and 87-92.)

As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

When Claims Are Directed to Multiple Categories of Inventions:

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

(2) A product and process of use of said product; or

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

In this application, the examiner maintained lack of unity in the Final Office action, even though there was no prior art rejection on elected product claims. This was incorrect. If the claimed product is free of the prior art, the examiner should be rejoining the first method of making and the first method of using the claimed product, per 37 CFR 1.475.

It is noted that in the original restriction requirement, the product claims 1-78 had been placed into 13 groups depending upon the variables of the Markush members. This is not consistent with ISPE Guidelines.

> "10.17 Rule 13.2 also governs the situation involving a single claim that defines alternatives (chemical or non-chemical), the so-called "Markush practice." In this special situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in Rule 13.2, is considered met when the alternatives are of a similar nature.
>
> (a) When the Markush grouping is for alternatives of chemical compounds, they are regarded as being of a similar nature where the following criteria are fulfilled:
>
> > (A) all alternatives have a common property or activity, and
> >
> > (B)(1) a common structure is present, that is, a significant structural element is shared by all of the alternatives, or
> >
> > (B)(2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains."

Here, all the compounds have a common property or activity as agonists of the RUP3 receptor. Applicant's arguments on pages 11-14 of this petition are convincing concerning the significant structural element shared by all the alternatives. The examiner has provided no prior art to demonstrate that the claims, as amended, fail to make a contribution over the prior art. For

these reasons, the restriction between Groups I-XIII is unwarranted and has been replaced by an election of species requirement amongst the alternatives. Moreover, it is noted that MPEP 803.02 sets forth guidance concerning the examination of examination required for Markush claims:

> In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. An examiner should set forth a requirement for election of a single disclosed species in a Markush-type claim using form paragraph 8.01 when claims limited to species are present or using form paragraph 8.02 when no species claims are present. See MPEP § 808.01(a) and § 809.02(a). Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

DECISION

The petitions filed under 1.144, 1.181 and 1.182 are **GRANTED** for the reasons set forth above.

The finality of the Office action mailed 13 May 2010 has been withdrawn.

The amendment filed on 13 August 2010 will be entered.

The restriction requirement between the alternatives of the Markush claim, Groups I-XIII, has been withdrawn and replaced by an election of species requirement. If the elected species is allowable, the examiner will follow the practice in MPEP 803.02 and examine a second and subsequent species, until the patentability of the Markush claims is determined.

The restriction requirement between groups XV, XVI and XVII, directed to process of using the product, has been withdrawn. Claims 82- 85, 87-92 are rejoined for examination.

The restriction requirement between the product and the first method of using the product (rejoined groups XV, XVI and XVII, Claims 82- 85, 87-92) and the first method of making the product (Group XVIII, claim 100) has been withdrawn, in view of the fact that there is no prior art cited on the products.

The application will be forwarded to the examiner for preparation of an Office action consistent with this decision, and following the Markush examination guidelines in MPEP 803.02.

The supervisory patent examiner is expected to personally check on the pendency of this application which is up for the third or subsequent Office action with a view to finally concluding its prosecution. See MPEP 707.02.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott, for

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,657	03/03/2006	Robert M. Jones	34.US5.PCT	4098

26204 7590 09/28/2011
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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
JARRELL, NOBLE E

ART UNIT	PAPER NUMBER
1622	

NOTIFICATION DATE	DELIVERY MODE
09/28/2011	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.

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SEP 2 8 2011

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of:	:
Jones et al.	:
Serial No.: 10/541,657	: PETITION DECISION
Filed: March 3, 2006	:
Attorney Docket No.: **34.US5.PCT**	:

This is in response to the petition under 37 CFR § 1.181, filed September 9, 2011, requesting that the finality of the Office action of July 12, 2011 be withdrawn.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed a non-final Office action on January 19, 2011 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-5, 12-14, 16-66, 73, 74, 78-85, 87-92 and 100-109 were pending and rejected. The examiner rejected claims 1-5, 12-14, 16-66, 73, 74, 78-85, 87-92 and 100-109 under 35 USC 112, first paragraph, as non-enabling for preparation of a solvate or hydrate of a compound embraced by formula (la). The examiner rejected claims 79-81, 83-85, 87-89 and 91 under 35 USC 112, first paragraph, as non-enabling for the treatment of the scope of disorders claimed. Claims 80 and 88 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 1-5, 12-14, 16-66,.73, 74, 78-85, 87-92 and 100 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5, 12-14, 16-66, 73, 74, 78-85, 87-92 and 100 of copending Application No. 12/945712.

In reply to the non-final Office action of January 19, 2011, applicants filed a response on April 15, 2011. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to the claims.

On July 12, 2011, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-5, 12-14, 17-66, 73, 74, 79-85, 90-92 and 100-115 were pending and rejected. The examiner rejected claims 1-5, 12-14, 17-66, 73, 74, 79-85, 90-92 and 100-115 under 35 USC 112, first paragraph, as non-enabling for preparation of a solvate or hydrate of a compound embraced by formula (la). The examiner rejected claims 79-85, 90-92 and 110-115 under 35 USC 112, first paragraph, as non-enabling for the treatment of the scope of disorders claimed. Claims 1-5, 12-14, 16-66, 73, 74, 78-85, 87-92 and 100, and newly added claims 110-115 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5, 12-14, 17-66, 73, 74, 79-85, 87-92 and 100 of copending Application No. 12/945712.

In response thereto, applicants filed this petition on September 9, 2011, requesting that the finality of the Office action of July 12, 2011 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on September 9, 2011, applicants request that the finality of the Office action of July 12, 2011 be withdrawn as improper. Specifically, applicants argue that "the Office Action dated July 12, 2011 was prematurely made final for at least three reasons: 1. the Examiner failed to acknowledge or answer the substance of, Applicants' arguments made in the response filed on April 15, 2011. 2. In making the rejection of claims 79-85, 90-92 and 100-115 in the Office Action dated July 12, 2011, despite the fact the Examiner had already considered enablement of these claims, the Examiner raised a new allegation that the specification did not reasonably provide enablement for prophylaxis of obesity, type II diabetes, metabolic syndrome, insulin resistance, inadequate glucose tolerance, hyperglycemia, hypertriglyceridemia and hypercholesteremia for the first time in a final Office Action, without providing Applicants with any opportunity to amend the claims in response to this new ground of rejection, to present new evidence in response to this new ground of rejection or to present and have the Examiner consider arguments against the new ground of rejection. 3. The Examiner newly rejected claims 82 and 90 in the final Office Action even though these claims were not substantively amended, and that Applicants' amendments in the Response filed April 15, 2011 could not possibly have occasioned the new rejection of these claims."

Applicants' arguments are well taken and persuasive since applicants' 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).

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). Accordingly, it is decided that Applicants' arguments are well-taken and found persuasive.

DECISION

The petition is **GRANTED.**

The Office action mailed July 12, 2011 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. The after final amendment of September 20, 2011 will also be entered and treated as an amendment for consideration by the examiner. 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 Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

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MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Patent No. 8,040,949	:	
Issued : October 18, 2011	:	ON PETITION
Application No. 10/541,732	:	
Filed: September 16, 2005	:	
Attorney Docket No.**0321.68782**	:	

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SUITE 1200
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MAILED
JAN 28 2011
OFFICE OF PETITIONS

In re Application of :

Rieck, et al. :

Application No. 10/541,845 : ON PETITION

Filed: June 27, 2006 :

Attorney Docket No. **1604BPE-17-PUS**

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 30, 2010.

The petition is **dismissed**.

This application was held abandoned December 2, 2010, , after no reply was received to the Notice of Allowance and Issue Fee Due mailed September 1, 2010. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on December 2, 2010. A Notice of Abandonment was mailed December 15, 2010. The instant petition was filed on December 30, 2010. Petitioner maintains that the Office action mailed September 1, 2010, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the **master docket for the firm.** That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing **all replies** docketed for a date three months from the

mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **If no such master docket exists, the practitioner should so state** and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

Petitioner has not made the evidentiary showing specified above. The petition is dismissed accordingly. The renewed petition must be accompanied by a copy of petitioner's master docket record for the firm. If a master docket does not exist, the renewed petition should indicate such and be accompanied by adequate evidence to support petitioner's contention that the Notice of Allowance and Issue Fee Due was not received.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 14 2011

OFFICE OF PETITIONS

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of :

Rieck, et al. :

Application No. 10/541,845 : ON PETITION

Filed: June 27, 2006 :

Attorney Docket No. **1604BPE-17-PUS**

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 1, 2011.

The petition is **granted**.

This application was held abandoned December 2, 2010, after no reply was received to the Notice of Allowance and Issue Fee Due mailed September 1, 2010. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on December 2, 2010. A Notice of Abandonment was mailed December 15, 2010. A petition under 37 CFR 1.181 was filed on December 30, 2010, and dismissed by a decision mailed January 28, 2011. The instant renewed petition was filed on March 1, 2011. Petitioner maintains that the Office action mailed September 1, 2010, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The issue fee, publication fee, and Form PTOL-85b are noted as having been received on December 20, 2010.

The application file is being forwarded to the Office Data Management for further processing.

Questions 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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GE HEALTHCARE, INC.
IP DEPARTMENT 101 CARNEGIE CENTER
PRINCETON NJ 08540-6231

MAILED
OCT 07 2010
OFFICE OF PETITIONS

In re Application of :
Magne Solbakken et al. :
Application No. 10/541,949 : DECISION ON PETITION
Filed: June 7, 2006 :
Attorney Docket No. PN0302 :

This is a decision on the three petitions to Remove a Document filed June 14, 2010, which is being treated as a request under 37 CFR 1.182 that the acceptance of three terminal disclaimers filed January 21, 2009 be withdrawn. This is also a decision on the request for refund of the terminal disclaimer fees.

The petitions for withdrawal of terminal disclaimers are **GRANTED**.

The petitions for refund of the terminal disclaimer fees are **DISMISSED**.

The non-final Office action of January 5, 2010 included several non-statutory double patenting rejections. In response thereto, applicants filed four terminal disclaimers on June 9, 2010. Petitioner requests that three of the terminal disclaimers now be withdrawn. The three terminal disclaimers to be withdrawn are for patents 6,264,914, 6,921,525 and 7,182,934.

The examiner of record has indicated to the undersigned that the three terminal disclaimers in question are no longer needed as the obvious double patenting rejections based on the three patents are no longer applicable.

A petition filed under 37 CFR 1.182 requires a fee under 37 CFR 1.17(f) which is currently $400. The petition fees for the three petitions have been charged to petitioner's deposit account.

Petitioner requests refund of the terminal disclaimer fees. 37 CFR 1.26 states in part:

> **§ 1.26 Refunds.**
> (a) The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an

appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

The terminal disclaimer fees were not paid by mistake and the request is for a change of purpose. For this reason the requests for refund of the terminal disclaimer fees cannot be granted.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Slater & Matsil, L.L.P.
17950 Preston Road
Suite 1000
Dallas, TX 75252

MAILED
NOV 04 2011
PCT LEGAL ADMINISTRATION

In re Application of:
KOH et al.
Application No.: 10/542,042
PCT No.: PCT/SG03/00007
Int. Filing Date: 13 January 2003
Priority Date: None
Attorney Docket No.: INF 2002 P 16842 US
For: PACKAGING INTEGRATED CIRCUITS

DECISION ON PETITION

This decision is issued in response to applicants' "Request to Withdraw Improper Abandonment of Application" filed 04 October 2011 treated herein as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 13 January 2003, applicants filed international application no. PCT/SG03/00007. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 July 2004.[1] Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 July 2005.

On 13 July 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a preliminary amendment; and declaration executed in accordance with PCT Rule 4.17.

On 06 June 2011, the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT UNDER 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the above-identified application was abandoned because applicant failed to provide the international application.

On 04 October 2011, applicants filed the present petition to withdraw the holding of abandonment.

[1]See Notice Informing the Applicant of the Communication of the International Application to the Designated Offices (PCT/IB308) dated 29 July 2004.

DISCUSSION

Petitioner states in the present petition that "the present application was abandoned on June 06, 2011. Applicant respectfully submits that this abandonment was improper and respectively request that the application be revived and examined on the merits." A review of the application file and present petition reveals that the above identified application is the United States national stage application of PCT/SG03/00007 which claimed no priority date. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 12 March 2006. Further, a copy of the international application was communicated to the United States/Designated Elected Office on 29 July 2004. On 10 June 2005, applicants filed the appropriate basic national fee. Therefore, the payment of the basic national fee and submission of the international application were timely and the Notification of Abandonment was mailed in error.

CONCLUSION

For the reasons above, the request is **GRANTED** and the Notification of Abandonment mailed 06 June 2011 is hereby **VACATED**.

The holding of Abandonment is withdrawn.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
DEC 08 2010
OFFICE OF PETITIONS

In re Patent No. 7,553,868	:	DECISION ON REQUEST FOR
MORLEY et al.	:	RECONSIDERATION OF
Issue Date: 06/30/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/542,044	:	AND
Filed: 07/13/2005	:	NOTICE OF INTENT TO ISSUE
Docket No. 06275-460US1 100928-1P US	:	CERTIFICATE OF 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, 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 hundred seventy-three (173) 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 hundred seventy-three (173) 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 **one hundred seventy-three (173) 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 : 7,553,868 B2

DATED : June 30, 2009 **DRAFT**

INVENTOR(S) : Morley 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 169 days.

Delete the phrase "by 169 days" and insert – by 173 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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,621,314 :
Issue Date: November 24, 2009 :
Application No. 10/542,438 :
Filed: May 2, 2006 :
Attorney Docket No. 51835/JWP/L471 :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
AUG 01 2011
OFFICE OF PETITIONS

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 7,919,237	:	
Issue Date: April 5, 2011	:	
Application No. 10/542,458	:	DECISION ON PETITION
Filed: January 26, 2007	:	
Attorney Docket No. **40448-501N01US**	:	

This is a decision on the petition, filed, April 6, 2011, 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 to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "The Institute for Systems Biology." 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.

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* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "The Institute for Systems Biology" 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 be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson at (571) 272-2991. 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 after issuance of this application 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
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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON, NJ 08543-5312

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of
Ingo Hutter, et al.
Application No.: 10/542,585
Filed: January 6, 2006
Attorney Docket No.: PD030010

ON PETITION

This is a decision on the petition, filed September 23, 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 9, 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 2443 for further processing of the request for continued examination 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Aibihns.Zacco AB
P.O. Box 5581
Valhallavagen 117
SE-11-4 85 STOCKHOLM
SWEDEN

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Application of Aastrup et al. :
Application No. 10/542,616 : Decision on Petition
Filing Date: July 18, 2005 :
Attorney Docket No. 066935-076983 :

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b) filed February 25, 2011.

The petition is **granted**.

The Office mailed a Notification of Non-Compliant Appeal Brief on March 2, 2010. The notification set an extendable time period of the longer of one month or thirty days. The Office did not receive a response to the notification or a request for an extension of time. As a result, the appeal was dismissed. Since no claim was allowed, the application became abandoned on April 3, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied a reply in the form of a new appeal brief, the required petition fee of $810, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Applicants should note the instant decision should not be interpreted as an indication the Office has determined the appeal brief filed with the instant petition complies with the provisions of 37 CFR 41.37. In other words, the instant decision does not preclude the future issuance of a Notification of Non-Compliant Appeal Brief setting a new time period for reply if the Office subsequently determines the appeal brief filed with the instant petition does not comply with the provisions of 37 CFR 41.37.

The petition is signed by Attorney Jeffrey Oster. The record fails to indicate Attorney Oster has been given a power of attorney to prosecute the application and the address 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, if Attorney Oster wishes to receive future correspondence at the address on the petition, a request to change the address of record must be filed.

MPEP 1205.03 states,

> Effective March 30, 2010, the Board of Patent Appeals and Interferences (BPAI) will have the sole responsibility for determining whether appeal briefs filed in patent applications comply with 37 CFR 41.37, and will complete the determination before the appeal brief is forwarded to the examiner for consideration.

In view of MPEP 1205.03, the Board of Patent Appeals and Interferences will be informed of the instant decision and will review the February 25, 2011 appeal brief in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Jeffrey B. Oster
8339 SE 57th St
Mercer Island, WA 98040

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/28/2011

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542846 Patent No.: 8006823 B2

CofC mailroom date: 9/22/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

Comments: _____

Kenneth Shaw

SPE

3754

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 12, 2010

TO SPE OF : ART UNIT 2431 - SPE James O. Wilson

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542,940 Patent No.: 7,662,814 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Antonio Johnson

Should the change to claims 5 be approved as requested by applicant?
See COCIN dated 09-21-2010

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

X Approved — **All** changes apply.

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

Comments: Requested change has been approved.

SPE_/James O. Wilson/____ Art Unit _1624__

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 25 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,976,853	:	DECISION ON REQUEST
Ohkouchi et al.	:	FOR
Issue Date: July 12, 2011	:	RECONSIDERATION OF
Application No. 10/542,997	:	PATENT TERM ADJUSTMENT
Filed: July 21, 2005	:	and
Atty Docket No. 084437-0173	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 9, 2011 pursuant to 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 and twelve (1012) 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 nineteen (919) days is **GRANTED to the extent indicated herein.**

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The record supports a conclusion that this patent is not subject to a terminal disclaimer.

First, a review of the record indicates that the Office improperly calculated the over-three year period as commencing with the day after the three year anniversary of the filing of the application from which this patent issued (July 22, 2008). A review of the record indicates that this application is a national stage entry of PCT/JP04/0074, and the claimed priority date is January 29, 2003. As such, the over three-year period

commences not with the day after the three year anniversary of the filing date, but rather with "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) in an international application."[1] The three year anniversary of the commencement date is July 29, 2008, and as such, the over-three year period began not on July 22, 2008, but rather on July 30, 2008.

It follows that the over three-year period totals 640 days, and runs from July 30, 2008 through April 29, 2010, the day before the filing of a Request for Continued Examination (RCE).

Second, Patentees dispute the period of time excluded from B delay for appellate review. Patentees' 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 86 days, beginning on February 3, 2010, the date of filing of the notice of appeal and ending on April 30, 2010, the subsequent date of the filing of the RCE. Thus, B delay is 554 (640 - 86) days.

As such, the patent term adjustment is increased by 919 (608 days of examination delay plus 640 "B-delay" minus the aforementioned excluded 86 days minus 243 days of Applicant delay) days, not 1012 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,**

[1] 37 C.F.R. § 1.703(b)

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.

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. To the extent that Patentees dispute the over-three year period as commencing not with the day after the three-year anniversary of the application's filing date but rather with the day after the three-year anniversary of the thirty-month anniversary of the priority date, 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.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and nineteen (919) days.**

---

[2] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[3] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[4] (571) 273-8300: please note this is a central facsimile number.
[5] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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 : 7,976,853 B2

DATED : **July 12, 2011** **DRAFT**

INVENTOR(S) : Ohkouchi 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 926 days

Delete the phrase "by 926 days" and insert – by 919 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

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

MAILED
APR 04 2012
OFFICE OF PETITIONS

In re Patent No. 7,976,853	:	DECISION ON RENEWED
Ohkouchi et al.	:	REQUEST FOR
Issue Date: July 12, 2011	:	RECONSIDERATION OF
Application No. 10/542,997	:	PATENT TERM ADJUSTMENT
Filed: July 21, 2005	:	
Atty Docket No. 084437-0173	:	

This is a decision on the renewed petition filed on September 14, 2011 pursuant to 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 nine hundred and twenty-six (926) days.

This renewed petition pursuant to 37 C.F.R. § 1.705(d) is **GRANTED**.

This patent issued on July 21, 2011 with a patent term adjustment of 926 days.

On August 9, 2011, Patentee filed an original petition pursuant to 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 and twelve (1012) days. The original petition pursuant to 37 C.F.R. § 1.705(d) was granted via the mailing of a decision on August 25, 2011, *to the extent* that the term of the above-identified patent is extended or adjusted by 919 days.

With this renewed petition pursuant to 37 C.F.R. § 1.705(d), Patentee asserts the term of the above-identified patent should

be extended or adjusted by nine hundred and twenty-six (926) days.

The Office agrees. The patent term adjustment is increased by 926 (608 days of examination delay plus 647 "B-delay" minus 86 days excluded due to appellate review as discussed on the second page of the decision of August 25, 2011 minus 243 days of Applicant delay) 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.

The patent is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and twenty-six (926) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,976,853 B2

DATED : **July 12, 2011** **DRAFT**

INVENTOR(S) : Ohkouchi 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 919 days

Delete the phrase "by 919 days" and insert – by 926 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/1/10

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. N 10/543109.-Pt. 7598241

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)

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

Comments: _____

/Joseoh K. McKane/
Art Unit 1626

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Deleted: SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

LONDA, BRUCE S.
NORRIS MCLAUGHLIN & MARCUS, PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,585,558	:	
Issue Date: 8 September, 2009	:	
Application No. 10/543,137	:	ON PETITION
Filed: 1 December, 2005	:	
Attorney Docket No. 101621-16	:	

This is a decision on the petition filed 28 January, 2011, to issue a certificate of correction pursuant to 37 C.F.R. §1.322, but from the averments and information of record properly considered to waive the rules pursuant to 37 C.F.R. §1.183 and accept the correction of the assignee on the front page of the above-identified patent pursuant to 37 C.F.R. §1.323 and §3.81(a).

NOTE:

The requirements of the instant matter are set forth in the Commentary at MPEP §307 and §1480-§1485—Petitioner must provide not only the statement and showings, but also the proper fees and a showing that the assignment pursuant to which Petitioner seeks a change, was recorded with the Office before issue—which requirement it appears that Petitioner cannot satisfy because the referenced assignment in the instant matter was not recorded until 30 September, 2010, more than a year after issue.

Moreover, Petitioner improperly avers error on the part of the Office. The identification of the prior assignees was set forth by Petitioner.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction adding the name of "NEC Corporation."

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

Patent No. 7,585,558
Application No. 10/543,137

The guidance in the Commentary at MPEP §307 provides:

307 Issue to Assignee [R-3]

35 U.S.C. §152. Issue of patent to assignee.
Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.

**>
37 C.F.R. §3.81. Issue of patent to assignee.
(a)*With payment of the issue fee*: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in §3.11.
(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 § 3.11before 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.
(c)*Partial assignees*. (1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.
(2)If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees.<

Normally, for a patent to issue to an assignee, a request for issuance of the application in the name* of the assignee* must be filed in the United States Patent and Trademark Office (Office) at a date not later than the day on which the issue fee is paid. **>Such a request must indicate that the assignment has been previously recorded in the Office. If the assignment has not been previously recorded in the Office, the request must state that the document has been filed for recordation as set forth in 37 C.F.R. §3.11. See 37 C.F.R. §3.81(a).
If a request for issuance to an assignee pursuant to 37 C.F.R. §3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 C.F.R. §3.81(b) must include a request for a certificate of correction under 37 C.F.R. §1.323 (accompanied by the fee set forth in 37 C.F.R. §1.20(a)) and the processing fee set forth in 37 C.F.R. §1.17(i). The request under 37 C.F.R. §3.81(b) must state that the assignment was submitted for

recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent. The Office will issue a certificate of correction to reflect that the patent issued to the assignee provided the requirements of 37 C.F.R. §3.81(b) and 37 C.F.R. §1.323 are complied with.<

Only the first appearing name of an assignee will be printed on the patent where multiple names for the same party are identified on the **>Fee(s)< Transmittal form, PTOL-85B. Such multiple names may occur when both a legal name and an "also known as" or "doing business as" name is also included. This printing practice will not, however, affect the existing practice of recording assignments with the Office in the Assignment Division. The assignee entry on form PTOL-85B should still be completed to indicate the assignment data as recorded in the Office. For example, the assignment filed in the Office and, therefore, the PTOL-85B assignee entry might read "Smith Company doing business as (d.b.a.) Jones Company." The assignee entry on the printed patent will read "Smith Company."

Irrespective of whether the assignee participates in the prosecution of the application, the patent issues to the assignee if so indicated on the **>Fee(s)< Transmittal form PTOL-85B. Unless an assignee's name and address are identified Transmittal form PTOL-the applicant. Assignment will be based solely on >Assignment information updated after a patent is reflective of the assignment subsequent to the issuance assignment information an assignment search on and by inspecting the documents.<

A request for a certificate 37 CFR 1.323 (see MPEP from incomplete or erroneous furnished >, or a missing PTOL-85B will not be under 37 CFR 3.81(b) assignment was submitted in 37 CFR 3.11 before request under 37 CFR the Office of Petitions

(A)the *>processing< 1.17(*>i<);
(B)a request **>for the name of the assignee, corrected to state the name
(C)a statement that submitted for recordation 3.11before the issuance of the
(D)a **>request under 37 CFR 1.323 accompanied in 37 CFR 1.20(a).<

The regulations at 37 C.F.R. §3.81(b) provide:

> *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.

On any renewed petition, Petitioner must satisfy all showing and fee requirements.

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.

CONCLUSION

Accordingly, the petition under 37 C.F.R. 37 C.F.R. §1.183, §1.322, §1.323 and §3.81 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

[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).

Patent No. 7,585,558
Application No. 10/543,137

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners 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

FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

MAILED

NOV 24 2010

OFFICE OF PETITIONS

In re Application of

Brana Malobabic
Application No. 10/543,224
Filed: April 24, 2006
Attorney Docket No. 174.001US01

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 October 7, 2010.

The request is **APPROVED**.

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

The request was signed by Jay Wahlquist on behalf of all attorneys of record who are associated with customer No. 34206. All attorneys/agents associated with the Customer Number 34206 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 an outstanding Office action mailed September 2, 2010 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 the examination or status of this application should be directed to the Technology Center.

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

cc: BRANA MALOBABIV GIANCRISTOFARO
MONROI FOUNDER
100 ALEXIS-NIHON, SUITE 120
ST LAURENT, QUEBEC H4M 2N6
CANADA

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
10/543,224	04/24/2006	Brana Malobabic	174.001US01

CONFIRMATION NO. 9721

POWER OF ATTORNEY NOTICE

34206
FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

OC000000044434778

Date Mailed: 11/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/07/2010.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK, NY 10112

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Marie Van-Denabeele, et al.
Application No. 10/543,266
Filed: March 13, 2006
Attorney Docket No.: 80750/JPW/AJC

DECISION ON PETITION

This is a decision in response to the petition, filed August 12, 2010, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. Alternatively, petitioner has filed a petition under the provisions of 37 CFR 1.137(b).

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

This application was held abandoned for failure to reply to the final Office communication mailed December 16, 2009, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 8, 2008.

Petitioner asserts that the Office action dated December 16, 2009 was not received.

A review of the application file reveals no irregularities in the mailing of the Office action mailed December 16, 2009. 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 Office action, 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 one 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 one month 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. Accordingly, the Notice of Abandonment mailed December 8, 2008 is hereby vacated.

In view of the above, the petition under 37 CFR 1.137(b) is unnecessary and is **DISMISSED AS MOOT**. No petition fee was charged, nor is one due.

This application is being referred to the Technology Center technical support staff of Art Unit 1616 for (1) withdrawing the holding of abandonment and (2) for appropriate action by the Examiner in the normal course of business on the reply received on August 12, 2010.

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

Merck
PO Box 2000
Rahway NJ 07065-0907

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Patent No. 7,572,922	:
Parmee et al.	: DECISION UPON REMAND AND
Issue Date: August 11, 2009	: RECONSIDERATION OF
Application No. 10/543,290	: PATENT TERM ADJUSTMENT
Filed: July 25, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 21200P	: TO ISSUE CERTIFICATE OF
Title: Substituted Pyrazoles,	: CORRECTION
Compositions Containing Such	:
Compounds and Methods of Use	

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 seventy-seven (877) 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 seventy-seven (877) 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 : 7,572,922

DATED : **August 11, 2009** **DRAFT**

INVENTOR(S) : Parmee 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 877 days

Delete the phrase "by 537 " and insert – by 877 days--

Day : Thursday

PALM INTRANET

Date: 9/9/2010
Time: 11:12:27

PTA Calculations for Application: 10/543290			
Application Filing Date:	07/25/2005	PTO Delay (PTO):	580
Issue Date of Patent:	08/11/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	43
Post-Issue Petitions:	0	Total PTA (days):	877
PTO Delay Adjustment:	340		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	09/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	340		
73.5	07/22/2009	PTA 36 MONTHS			
73	08/11/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	40		64
72	07/08/2009	EXPORT TO FINAL DATA CAPTURE			
71	07/02/2009	DISPATCH TO FDC			
70	07/02/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	07/01/2009	WORKFLOW - QUERY REQUEST - FINISH			
68	06/29/2009	MAIL-PETITION DECISION - DISMISSED			
67	06/29/2009	PETITION DECISION - DISMISSED			
65	03/31/2009	FINISHED INITIAL DATA CAPTURE			
64	03/02/2009	ISSUE FEE PAYMENT VERIFIED			
63	03/02/2009	PETITION ENTERED			
62	03/02/2009	ISSUE FEE PAYMENT RECEIVED			
61	01/13/2009	TC RETURN TO PUBS			
60	01/13/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
59	01/12/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
58	12/29/2008	PUBS CASE REMAND TO TC			
57	12/31/2008	WORKFLOW - QUERY REQUEST - BEGIN			
56	12/08/2008	EXPORT TO INITIAL DATA CAPTURE			
53	12/03/2008	MAIL NOTICE OF ALLOWANCE			
52	11/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	11/21/2008	CASE DOCKETED TO EXAMINER IN GAU			

50	11/21/2008	ISSUE REVISION COMPLETED			
49	11/21/2008	DOCUMENT VERIFICATION			
48	11/10/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	11/20/2008	EXAMINER'S AMENDMENT COMMUNICATION			
46	11/20/2008	NOTICE OF ALLOWABILITY			
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		INFORMATION DISCLOSURE STATEMENT (IDS)			

10.7	03/05/2007	FILED			
10	03/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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3	12/29/2005	APPLICATION DISPATCHED FROM OIPE			
2	12/29/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	07/25/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

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SEP 22 2010

OFFICE OF PETITIONS

In re Application of Ryan et al. :
Application No. 10/543,425 :
§ 371(c) Date: May 10, 2006 :
Attorney Docket No. 81107296 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2010, to revive the above-identified application.

The petition is **granted**.

Facts

The Office mailed a non-final Office action on November 28, 2008. A reply to the non-final Office action was filed March 24, 2009.

The Office mailed a Notice of Non-Compliant Amendment on June 17, 2009. A reply to the June 17, 2009 notice was filed on August 17, 2009.

The Office mailed a Notice of Non-Compliant Amendment on October 13, 2009. The notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A reply to the October 13, 2009 notice was filed October 23, 2009.

On January 5, 2010, the Office issued a letter informing Applicants the October 23, 2009 reply to the October 13, 2009 notice was improper. The Office did not receive a second reply to the October 13, 2009 notice. Therefore, the application became abandoned on November 14, 2009.

Discussion

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the October 13, 2009 reply in the form of an amendment. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated 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 has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1795 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

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JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
Craig B. Gentry :
Application No. 10/543,464 : ON PETITION
Filed: July 27, 2005 :
Attorney Docket No. M-15582 US

This is a decision on the petition, filed January 14, 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 December 23, 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 2437 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).

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OFFICE OF PETITIONS

In re Application of	:	
Stephen Rubin	:	DECISION REFUSING STATUS
Application No. 10/543,584	:	UNDER 37 CFR 1.47(a)
Filed: July 27, 2005	:	
Attorney Docket No. 100965-1P US	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 16, 2010.

The petition is **dismissed**.

Rule 47 applicant is given **TWO 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)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the 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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The petition lacks item (1) set forth above.

In regard to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication herein that joint inventor Bulun was presented with a copy of the complete application papers for this application. From the evidence of record, it only appears that the non-signing inventor was presented with only a copy of the declaration. If the non-signing inventor was not presented with a copy of the application papers for this application, then the inventor could not attest that he had "reviewed and understand the application papers" and could not execute the declaration he was requested to sign.

For this reason, the petition is dismissed.

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

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

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

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Rubin :
Application No. 10/543,584 : ON APPLICATION FOR
Filed: July 27, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 100965-1P US :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed September 17, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is five hundred forty (540) days, not two hundred thirty-one (231) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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 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 can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

---

[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.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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In re Application of	:	DECISION
Stephen Rubin	:	AMENDING INVENTORSHIP
Application No. 10/543,584	:	
Filed: July 27, 2005	:	
Attorney Docket No. 100965-1P US	:	

This is a decision on the "Response" filed November 2, 2010, which is being treated as a renewed petition. Further, this renewed petition is being treated under 37 CFR § 1.183 and 1.48(a) to waive the statement requirement of 37 CFR 1.48(a)(2)&(3), a statement from the person being added as an inventor and re-executed declaration.

The petition decision mailed September 21, 2010 mistakenly treated the petition filed September 16, 2010 as a petition filed under 37 CFR 1.47(a). However, § 1.47(a) deals with refusal of an inventor to join in an application at filing, whereas the situation in the instant application is the refusal of an added inventor to sign a supplemental declaration and statement. In this situation a petition under 37 CFR 1.183 is proper and the burden to prove the added inventor refuses to sign is the same as that required under 37 CFR 1.47(a).

The petition under 37 CFR 1.183 is **Granted**.

The petition under 37 CFR 1.48(a) is **DISMISSED**.

As to the petition under 37 CFR 1.183:

The renewed petition adequately shows that the non-signing inventor to be added, Serdar Bulun, refuses to sign the supplemental declaration and statement.

As to the petition under 37 CFR 1.48(a):

A grantable petition under 37 CFR 1.48(a) must 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) of this chapter).

The instant petition lacks item (3). The supplemental declaration filed November 22, 2010 listing both Stephen Rubin and Serdar Bulun as co-inventors is not signed by Rubin.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Stephen Rubin et al
Application No. 10/543,584
Filed: July 27, 2005
Attorney Docket No. 100965-1P US

DECISION
AMENDING INVENTORSHIP

This is a decision on the renewed petition filed January 31, 2011, which is being treated under 37 CFR §§ 1.183, 1.48(a) to waive the statement requirement from the person being added as an inventor.

The petition under 37 CFR 1.183 was granted in the decision mailed December 20, 2010.

The petition under 37 CFR 1.48(a) is **GRANTED.**

Petitioner has shown that the non-signing inventor to be added, Serdar Bulun, refuses to sign a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part. It is agreed that under the extraordinary circumstances of this application, justice would be served by waiver of the requirements of 37 CFR 1.48(a)(2) and (3).

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). The inventorship has been changed by the addition of Sedar Bulun.

This application is being referred to the Office of Data Management.

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

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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
10/543,584	07/27/2005	1627	3194	100965-1P US	24	2

CONFIRMATION NO. 3836

CORRECTED FILING RECEIPT

44992
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WALTHAM, MA 02451-1215

OC000000045997956

Date Mailed: 02/14/2011

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)

Stephen Rubin, Southampton, NJ;
Sedar E Bulun, Chicago, IL;

Power of Attorney: The patent practitioners associated with Customer Number 44992

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/GB04/00414 02/03/2004

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.)
UNITED KINGDOM 0302572.3 02/05/2003

If Required, Foreign Filing License Granted: 03/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/543,584**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COMPOSITION COMPRISING A COMBINATION OF AN AROMATASE INHIBITOR, A PROGESTIN AND AN OESTROGEN AND ITS USE FOR THE TREATMENT OF ENDOMETRICOSIS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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KILPATRICK STOCKTON LLP-46872
J. Steven Gardner
1001 West Fourth Street
Winston-Salem, NC 27101

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AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Yuliang Zheng, et al.	:	
Application No. 10/543,600	:	DECISION ON PETITION
Filed: July 27, 2005	:	TO WITHDRAW
Attorney Docket No. UNCC 2002-28	:	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 June 29, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Kilpatrick Stockton LLP has been revoked by the assignee of the patent application on July 2, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **PASSE' INTELLECTUAL PROPERTY, LLC**
1717 Brassfield Road
Raleigh, NC 27614

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Liam McDowell
1061 Dalebrook Drive
Alexandria, VA 22308

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MAR 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Yuliang Zheng, et al.	:	
Application No. 10/543,600	:	DECISION ON PETITION
Filed: July 27, 2005	:	TO WITHDRAW
Attorney Docket No. CALY001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 11, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Liam McDowell does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **PASSE' INTELLECTUAL PROPERTY, LLC**
1717 BRASSFIELD RD.
RALEIGH NC 27614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 27, 2011

TO SPE OF : ART UNIT 1773 SPE Jill A. Warden.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/543,628 Patent No.: 7,955,862 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 claims 1 and 2 be amended as requested by applicant?
See COCIN dated 6-17-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

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

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

Comments: The request for correction to claim 2 is due to printing error. The claims filed 1/25/2011 does show strike though the character "s" of the term "samples." The request for correction to claim 2 is approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

The request for correction to claim 1 is denied. These changed were made by the examiner's amendments (See the interview summary mailed 2/2/2011). The terms inserted to claim 1 was chosen by applicant. Amendments made to claim 1 is not due to error.

SPE JJWard Art Unit 1773

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

MAILED
MAR 09 2012
OFFICE OF PETITIONS

In re Application of	:	
ECKHOUSE, et al	:	
Application No. 10/543,654	:	DECISION ON PETITION
Filed: October 6, 2006	:	TO WITHDRAW
Attorney Docket No. 023372.0101PTUS	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 9, 2012.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Scott A. Chambers, has been revoked by the assignee of the patent application on February 29, 2012. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CARDIODEX LTD.
3 HATOHEN ST.
P.O.B.3097
CESAREA BUSINESS PARK 38900 ISRAEL

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
10/543,654	10/06/2006	Shimon Eckhouse	023372.0101PTUS

CONFIRMATION NO. 4817

POA ACCEPTANCE LETTER

26694
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

OC000000052972969

Date Mailed: 03/07/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2012.

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.

/atesfai/

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

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
10/543,654	10/06/2006	Shimon Eckhouse	023372.0101PTUS

CONFIRMATION NO. 4817

POWER OF ATTORNEY NOTICE

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

OC000000052972951

Date Mailed: 03/07/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2012.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/atesfai/

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Joseph A Calvaruso
Chadbourne & Parke
30 Rockefeller Plaza
New York NY 10112

MAILED

AUG 1 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Heinz Schilling	:	
Application No. 10/543,664	:	DECISION ON PETITION
Filed: February 28, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **17233-009**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 8, 2010, to make the above-identified application special based on applicant's age as set forth in MPEP § 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 certification by a registered attorney. Accordingly, the above-identified application has been accorded "special" status.

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

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 3744 for action on the merits commensurate with this decision.

/JoAnne Burke/
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

ARENT FOX LLP
1675 BROADWAY
NEW YORK, NY 10019

MAILED

APR 29 2011

OFFICE OF PETITIONS

In re Application of
Simon DOTAN
Application No. 10/543,669
Filed: February 14, 2007
Attorney Docket No. **027885.00005**

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 March 25, 2011.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or if no assignee of the entire interest has properly been made of record, *the most current address information provided for the first named inventor*. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Inquires concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

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

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

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10543669
Filing Date	14-Feb-2007
First Named Inventor	Simon Dotan
Art Unit	3742
Examiner Name	REGINALD ALEXANDER
Attorney Docket Number	027885.00005
Title	ROTISSERIE APPARATUS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 38485

The reason(s) for this request are those described in 37 CFR:

10.40(b)(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Simon Dotan
Address	47 Vradim Street
City	Netanya
State	
Postal Code	42651
Country	IL

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Michael Fainberg/
Name	Michael Fainberg
Registration Number	50441

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : May 10,2011

In re Application of :

Simon Dotan

Application No : 10543669

Filed : 14-Feb-2007

Attorney Docket No : 027885.00005

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 10,2011

The request is **APPROVED.**

The request was signed by Michael Fainberg (registration no. 50441) on behalf of all attorneys/agents associated with Customer Number 38485 . All attorneys/agents associated with Cusotmer Number 38485 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 Simon Dotan

Name2

Address 1 47 Vradim Street

Address 2

City Netanya

State

Postal Code 42651

Country IL

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
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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

MAILED

MAR 09 2012

OFFICE OF PETITIONS

In re Application of :
Ekkehard H. Brück et al :
Application No. 10/543,673 : DECISION ON PETITION
Filed: July 27, 2005 :
Attorney Docket No. 07238/0203195-USO :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely to the final Office action mailed April 26, 2011. A Notice of Abandonment was mailed on November 16, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed April 26, 2011, is accepted as having been unintentionally delayed.

A review of the Office records for the above-identified application indicates that the Power of Attorney submitted on December 15, 2011 and again on February 27, 2012 were not satisfied by the Office. Therefore, If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1734 for appropriate action by the Examiner in the normal course of business on the reply received December 15, 2011.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

SAMANTHA A. UPDEGRAFF
201 THIRD ST. NW, SUITE 1340
ALBUQUERQUE, NM 87102

PEACOCK MYERS, P.C.
P.O. BOX 26927
ALBUQUERQUE NM 87125-6927

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/20/10

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. N10/543712.-Pt.7738791

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)

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: _____

/Kenneth Vanderpuye/ 2613

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

K&L Gates, LLP
P.O. Box 1135
CHICAGO, IL 60690

MAILED

NOV 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Ernst Heil, et. al.	:	
Application No. 10/543,743	:	DECISION ON PETITION
Filed: January 22, 2008	:	
Attorney Docket No. 3717537-00013	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 2011, to revive the above-identified application.

The application became abandoned for failure to file a timely reply to the Notice to File Corrected Application Papers (Notice) mailed on July 29, 2011. A Notice of Abandonment was mailed October 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 two (2) sheets of replacement drawings containing Figures 1-2; (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Lisa V. Mueller
Polsinelli Shughart PC
161 N. Clark Street
Suite 4200
Chicago IL 60601

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,902,328
Hillen et al.
Issue Date: March 8, 2011
Application No. 10/543,841
Filed: October 4, 2006
Attorney Docket No.
0480/020905USO1
Title: AMYLOID BETA(1-42) OLIGOMERS, DERIVATIVES THEREOF AND ANTIBODIES THERETO, METHODS OF PREPARATION THEREOF AND USE THEREOF

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 5, 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 five hundred seventeen (517) days.

The request for review of the patent term adjustment is **GRANTED**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 361 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 304 days.

Patentee disputes the 21 day post-allowance reduction. Patentee contends that there is no additional post-allowance delay beyond the submission of the information disclosure statement (7 days) and the petition to correct inventorship (120 days). Further, patentee states that the submission of the letter regarding candor is not a failure to engage in reasonable efforts to conclude prosecution, thus the 21 day reduction is incorrect.

Patentee's argument has been considered and determined to be persuasive. A review of the record shows that the only paper which was received on March 24, 2010 was the petition pursuant to 37 CFR 1.48. The record also shows that a reduction for the submission after the mailing of the Notice of Allowance was reduced by 120 days pursuant to 37 CFR 1.704(c)(10). Further the miscellaneous communication of April 14, 2010 was a letter regarding the patent term adjustment. As such the 21 day reduction is not warranted and will be removed.

However, as patentee has indicated an additional reduction of 45 days is warranted for the submission of the supplemental reply on December 28, 2009 after the initial response was submitted on November 13, 2009 pursuant to 37 CFR 1.704(c)(8). As such a 45 day reduction will be entered.

Thus the total reduction for patentee's delay total 193 (21 + 7 + 120 + 45) days.

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificate 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 seventy-two (472)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

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

Charlema Grant

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,902,328 B2

DATED : March 8, 2011 **DRAFT**

INVENTOR(S) : Hillen 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 496 days

Delete the phrase "by 496 days" and insert – by 472 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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D. PETER HOCHBERG COMPANY
THE BAKER BUILDING 6TH FLOOR
1940 EAST 6TH STREET
CLEVELAND, OH 44114-2294

MAILED

OCT 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Oettinger et al	:	
Application No. 10/543,992	:	DECISION GRANTING PETITION
Filed: April 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MH4091US (#90556)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 27, 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 September 21, 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 3733 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON TX 77010

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,955,819	:	
Issue Date : June 7, 2011	:	
Application No. 10/544,212	:	ON PETITION
Filed: August 2, 2005	:	
Attorney Docket No. 17563/004001	:	

This is a decision on the petition filed July 15, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent, as required by 3.81(b). *See also* MPEP 1481.01.

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

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

Inquiries concerning this decision should be directed to Diane C. Goodwyn at (571) 272-6735.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/31/2011

Paper No.: ——

TO SPE OF : ART UNIT 1615

CofC mailroom date 1/20/11

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/544311 Patent No.: 7846460 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: _____

Robert A. Wax
Supervisory Patent Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAY 13 2011
OFFICE OF PETITIONS

MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH NY 10510-9227

In re Patent No. 7,732,512
Application No. 10/544,317
Filing Date: August 1, 2005
Issue Date: June 8, 2010
Attorney Docket No. 71899

ON PETITION

This is a decision on the petition filed March 23, 2011, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner does not indicate whether the original Letter of Patent was not received or whether the Letter of Patent was received and then lost or destroyed. Any request for duplicate Letter of Patent must clearly state what happened to the original Letter of Patent.

If the original Letters Patent was never received, the Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent 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 Letters Patent was not received; and
3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

If the original Letter of Patent was lost or destroyed, the renewed petition should so state.

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

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

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

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

Telephone inquiries concerning this decision 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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MCGLEW & TUTTLE, PC
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SCARBOROUGH STATION
SCARBOROUGH NY 10510-9227

In re Patent No. 7,732,512
Application No. 10/544,317
Filing Date: August 1, 2005
Issue Date: June 8, 2010
Attorney Docket No. 71899

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.182, filed May 19, 2011, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,732,512 on June 8, 2010. Petitioner contends, however, that the original Letters of Patent was never received.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was never received. The Office of Data Management is directed to issue duplicate Letters of Patent.

The fee of $400.00 is being refunded as petitioner has established that the Letters of Patent was never received.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to the Office of Data Management.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Ollie Person—Office of Data Management FAX: 571-270-9764
Kimberly Terrell—Office of Data Management FAX: 571-270-9958

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,320	08/23/2006	Shaharyar Khan	GNC 0002	7626

23579 7590 11/09/2010
Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

EXAMINER
MCGARRY, SEAN

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
11/09/2010	PAPER

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

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

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NOV 0 9 2010

Charles Vendra, Ph.D., J.D.
PABST PATENT GROUP LLP
1545 Peachtree Street, NE
Suite 320
Atlanta, Georgia 30309

In re Application of	:
Khan	:Decision on Petition
Serial No.: 10/544,320	:
Filed : August 1, 2005	:
Attorney Docket No.: GNC 0002	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on April 16, 2009 requesting reconsideration of the lack of unity requirement mailed November 26, 2008. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage of a PCT application and as such is entitled to PCT unity of invention rules.

On November 26, 2008, the examiner set forth a lack of unity requirement which divided claims 1-18 into two groups as follows:

> Group I, claims 1-6 and 10-18, drawn to a method of treating hair growth via double stranded RNA targeted to an androgen signal transduction protein

Group II, claims 7-9, drawn to an inhibitory nucleic acid comprising a double stranded RNA targeted to inhibit an androgen signal transduction protein

The examiner reasoned that unity was lacking because prior art WO9602256 discloses ribozymes targeted to 5 alpha reductase for the treatment of alopecia. In addition, the examiner further restricted Group I; requiring applicants to elect a single siRNA by SEQ ID NO from dependent claims 11 and 18.

The examiner stated that "applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a)."

On January 26, 2009, applicants elected Group I and SEQ ID NOs: 254 and 255 and the target of androgen receptor, with traverse. It is noted that this election included the amendment of claims 14 and 15 to a different gene, androgen receptor mRNA, from that originally presented 5-α reductase and from "inhibitory nucleic acid" to "double-standed ribonucleic acid." Claim 18 was amended to recite that the inhibitory nucleic acid was selected from SEQ. ID. Nos 148-471.

On February 18, 2009, the examiner mailed to applicants a non-final Office action in which the traversal was considered, the lack of unity determination was maintained, and the requirement was made final. Claims 7-9 and sequences other than SEQ ID Nos 254 and 255 and targets other than androgen receptor were withdrawn from examination. The Office action contained a rejection of claims 1-6, 10, and 12-17 under 35 U.S.C. § 103(a) as being unpatentable over Li et al. (US 6,744,776) and Harper et al. (US 5,877,160) in view of McSwiggen et al. (US 2005/0159376). Claims 11 and 18 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim and the deletion of non-elected subject matter.

The Office Action appears to have intended that claims 11 and 18 be limited to the elected species.

On April 16, 2009, applicant filed the petition currently under consideration.

On May 15, 2009, applicants provided a response including amendments to the claims and remarks traversing the objections and rejections.

On 18 September 2009, 14 January 2010 and 17 March 2010, applicants filed Information Disclosure Statements.

DISCUSSION

The file history and petition have been considered carefully.

> This national stage filing is entitled to PCT Unity of Invention practice with regard to any restriction or election of species requirement.

PCT Rules 13.2 states that:

> With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art.

If unity of invention has been broken PCT Rule 13.3 allows for restriction regardless of how the invention is claimed.

PCT Rules 13.3 states that:

> Determination of Unity of Invention Not Affected by Manner of Claiming. The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

As set forth in the M.P.E.P A1-Aministrative Instructions Under the PCT, Annex B-Unity of Invention-"Markush Practice": the special technical feature as defined by PCT Rule 13.2 shall be considered to be met when all the alternatives of a Markush-group are of similar nature. For chemical alternatives, such as the claimed antisense sequences, the Markush group shall be regarded as being of similar nature when

(A) all alternatives have a common property or activity and
(B)(1) a common structure is present, i.e., a significant structure is shared by all of the alternatives or
(B)(2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to an art recognized class of compounds in the art to which the invention pertains.

Turning now to the merits of the petition, it is noted that unity of invention should be evaluated anew at each step of prosecution. The claims were amended on May 15, 2009.

(A) Reconsideration of unity of invention between Process of Group I and product of Group II.

It is appropriate to reevaluate unity of invention at each stage of prosecution with regard to the claims as currently amended. To determine whether a product and process have unity of invention, the examiner should identify and compare the broadest independent claim of each group compared to each other and then to the prior art.

1. (original) A method of reducing hair loss in a mammal comprising the step of: contacting a plurality of the mammal's hair cells with double-stranded ribonucleic acid, wherein one strand comprises at least a partial nucleic acid sequence of an androgen signal transduction pathway protein, and wherein the double-stranded ribonucleic acid interferes with the translation of mRNA of the androgen signal transduction protein.

7. (original) An inhibitory nucleic acid comprising: a double-stranded ribonucleic acid, wherein one strand comprises at least a partial nucleic acid sequence of an androgen signal transduction pathway protein, and wherein the double-stranded ribonucleic acid inhibits the translation of a mRNA encoding the nucleic acid sequence of the androgen signal transduction pathway protein.

14. (previously amended) A method of treating hair loss in a mammal comprising reducing the levels of dihydroxy testosterone in the mammal by contacting the mammal with an effective amount of double-stranded ribonucleic acid specific for androgen receptor mRNA, wherein the effective amount of inhibitory nucleic acid

specific for androgen receptor mRNA inhibits the expression of androgen receptor protein.

At the time of the first Office action on the merits claim 1 recited a method using generic functional limitation whereas independent claim 14 was limited to those double-stranded ribonucleic acids directed against the androgen receptor mRNA. Claim 7 is directed to inhibitory nucleic acids which are "double stranded ribonucleic acid interferes with the translation of mRNA of the androgen signal transduction protein."

PCT Rule 13.2 permits restriction between Group I and Group II if the prior art anticipates or renders obvious that shared technical feature. This is consistent with Example 1 of the International Search and Examination Guidelines published in 2004.

The original lack of unity was based on a teaching regarding the 5α-reductase gene and ribozymes and asserted that said teaching rendered obvious siRNAs directed against the 5α-reductase gene.

Applicant's traversal asserted that one could not conclude that a teaching regarding ribozymes rendered obvious siRNA directed against the same gene. Nevertheless, applicant amended the claims to the androgen receptor mRNA.

The examiner was unpersuaded by applicant's arguments, but changed the basis for the lack of unity, as well as making the lack of unity requirement FINAL.

The making of the requirement FINAL was improper as applicant had not had an opportunity to traverse the Examiner's new determination that unity of invention was lacking.

The Office action mailed February 18, 2009 indicated that Li et al. and Harper et al. taught the use of inhibitors of androgen receptor in the treatment of hair loss, but did not teach use of siRNA. McSwiggen et al. taught the use of siRNA targeting androgen receptor for treatment of disease. The examiner reasoned that the combined teachings of the references show that the claimed invention does not make an inventive contribution over the prior art, and thus does not contain a special technical feature as defined by the PCT rules.

Subsequent to the filing of the instant petition applicant filed a response traversing the prior art rejection of the claims and which rejection had formed the basis of the Examiner's new holding of lack of unity. The response does not address whether Groups I and II have unity of invention.

It is noted that the original determination of lack of unity should have been made between the independent claims of the invention. Thus, it should have been determined whether claims 1-5, 7-9, 14 and 15 shared a common special technical feature. If they did not then the claims should have been set forth in appropriate groups. Subsequent to such an evaluation the dependant claims should have been evaluated as to whether they shared a common special technical feature with the independent claim from which they depended. As noted above the method claims and product claims do not appear to have a special technical feature in common.

Thus each of claims 1-5, 14, and 15 would serve as the basis for grouping the dependant claims. It is not mandatory that such groups be made. It is within the discretion of the examiner to keep together claims which otherwise lack unity of invention if it would facilitate examination.

(B) Reconsideration of the Further Restriction to a single species within Group I

This application was filed under the provisions of 35 U.S.C. §371 and is subject to the rules of unity of invention practice and not to the rules of restriction practice.

This is clearly set forth in M.P.E.P. §1893.03(d) –Unity of Invention which states:

> Examiners are reminded that unity of invention **(not restriction practice pursuant to 37 CFR 1.141 -1.146)** is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 U.S.C. 371. (Emphasis added.)

Further in this regard is M.P.E.P. §801 Introduction:

> This chapter is limited to a discussion of the subject of restriction and double patenting under Title 35 of the United States Code and Title 37 of the Code of Federal Regulations as it relates to national applications filed under 35 U.S.C. 111(a). The discussion of unity of invention under the Patent Cooperation Treaty Articles and Rules as it is applied as an International Searching Authority, International Preliminary Examining Authority, and in applications entering the National Stage under 35 U.S.C. 371 as a Designated or Elected Office in the U.S. Patent and Trademark Office is covered in Chapter 1800.

Applicant's arguments citing to M.P.E.P. §806.03 are thus inapposite as it is concerned with applications filed under 35 U.S.C. §111 and not 35 U.S.C. §371.

As set forth above the Administrative Instructions provide guidance as to how claims reciting Markush groups are to be treated with respect to lack of unity.

In setting forth the requirement that applicant elect a species from the Markush groups presented he relied on the Administrative instructions as cited above.

The examiner appears to have taken the position that siRNA directed against any particular member of the pathway is not substitutable for any other member. This appears to be on point as there is no a priori reason to expect that different genes will have common sequences which permit the same siRNA to inhibit their activity.

With respect to B(2) the examiner appears to assert that for anyone member of the signal transduction pathway that one cannot predict which of the potential siRNAs will actually have siRNA activity. On this basis one of skill in the art would not have knowledge of the members of a "recognized class of chemical compounds." That such a class may exist is not the issue, rather it is who are the actual members of the class.

Petitioner's arguments at page 8 speak to siRNA generically, but fail to address the siRNA of the claims.

Petitioner's arguments describe what appear to be common features of siRNA but do not establish that these common features are those which confer siRNA activity. Thus, they are not persuasive with regard to B(1). With respect to B(2) the issue centers on the metes and bounds of 'recognized class of chemical compounds" and what was known in the art.

Petitioner appears to address this issue at page 9 of the petition where he states:

> **2. Many siRNAs can be easily designed for the androgen receptor**
>
> In addition to what is disclosed in the specification, one of ordinary skill in the art was aware of many properties of functional siRNAs at the time of this application. For example, it was known in the art prior to the earliest claimed filing date of the present application that active siRNAs are typically formed by two 21-23 nucleotide long ribonucleotides that form a 19 base pair long duplex with symmetric 2-3 nucleotide long terminal overhangs having 5'-phosphate and 3'-hydroxyl groups. One of ordinary skill in the art was also aware of published methods for the design of siRNAs (see, for example, Elbashir, et al., Genes Dev., 15:188-200 (2001) and Elbashir, et al., Methods, 26:199-213 (2002)) and of programs found on the intemet which design siRNAs specific to any queried target gene.
>
> One of ordinary skill in the art would be able to use the known structural properties of siRNAs and publicly-available design tools to successfully design many siRNAs which inhibit the expression of any desired target gene of known sequence.

This line of reasoning compels the conclusion that a "recognized class of chemical compounds" comprising siRNA directed against the androgen receptor would have been obvious over the art. It suggests that one of skill in the art would be in

possession of said siRNAs without undue experimentation and that they would be expected to have siRNA activity.

If the examiner is correct then the Markush group lacks unity of invention. However, if petitioner is correct then the Markush group would share a common technical feature but it would not be a special technical feature.

In the Office Action of February 18, 2009 the examiner indicated that SEQ ID Nos 254 and 255 were free of the prior art and objected to claims 11 and 18 as being dependant from a rejected base claim. It is not apparent from the Office Action whether it was the examiner's intent that the claims 11 and 18 should be limited to SEQ ID Nos 254 and 255 or whether he had rejoined all of the sequences.

The record is unclear as to what the Examiner intended in his Office Action.

Applicant has amended the claims to incorporate SEQ ID Nos 1-1401 and SEQ ID Nos 148-471 in response to the Office Action.

> 1. (currently amended) A method of reducing hair loss in a mammal comprising the step of: contacting a plurality of the mammal's hair cells with double-stranded ribonucleic acid, wherein one strand comprises at least a partial nucleic acid sequence of an androgen signal transduction pathway protein, and wherein the double-stranded ribonucleic acid interferes with the translation of mRNA of the androgen signal transduction protein, and wherein the partial nucleic acid sequence is selected from the SEQ ID Nos 1-1401.
>
> 7. (currently amended) An inhibitory nucleic acid comprising: a double-stranded ribonucleic acid, wherein one strand comprises at least a partial nucleic acid sequence of an androgen signal transduction pathway protein, and wherein the double-stranded ribonucleic acid inhibits the translation of a mRNA encoding the nucleic acid sequence of the androgen signal transduction pathway protein.
>
> 14. (previously amended) A method of treating hair loss in a mammal comprising reducing the levels of dihydroxy testosterone in the mammal by contacting the mammal with an effective amount of double-stranded ribonucleic acid specific for androgen receptor mRNA, wherein the effective amount of inhibitory nucleic acid

specific for androgen receptor mRNA inhibits the expression of androgen receptor protein, and wherein the partial nucleic acid sequence is selected from .the SEQ ID Nos 148-471.

The unity of invention of the newly amended claims remains to be determined.

DECISION

For these reasons the petition filed under 37 CFR 1.144 on April 16, 2009 is **GRANTED-IN-PART.**

The application will be forwarded to the examiner to consider the papers filed May 15, 2009, September 18, 2009, 14 January 2010 and 17 March 2010.

The finality of the holding of lack of unity is withdrawn as it was prematurely made.

Lack of Unity of invention should be revisited throughout prosecution. At present the basis for Lack of Unity between the method claims and the composition claims is reasonable and this aspect of the petition is denied in so far as it relates to the original holding of lack of unity. However, as noted above applicant has not been afforded an opportunity to traverse the new basis for holding lack of unity between claims 1 & 11 and claim 7.

As set forth above the issue of unity of invention of the Markush group is maintained with respect to the different members of the androgen signal transduction pathway.

The Examiner's holding of lack of unity for members of the Markush group directed to a particular member of the androgen signal transduction pathway was not supported by sufficient scientific reasoning or prior art and is **not maintained**.

However, In view of petitioner's arguments cited above with regard to siRNAs directed against the androgen receptor the examiner needs to reconsider his position with respect to the allowability of any specific sequence directed toward the androgen receptor.

The examiner is to clarify his position as to the allowability of claims 11 and 14.

The examiner is to reconsider the holding of lack of unity with respect to the amended claims submitted May 15, 2009.

The examiner is to reconsider whether the Markush group of sequences in claims 1 and 14 have unity of invention in light of applicant's remarks cited above.

Any request for reconsideration must be made within two (2) months of the mail date of this decision.

Should there be any questions regarding this decision, please contact Supervisory Patent Examiner Gary Benzion, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

Jacqueline Stone
Director, Technology Center 1600

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Patent No. : **7834136**
Ser. No. : **10/544437**
Inventor(s) : **PARHAM, AMIR**
Issued : **11/16/2010**
Title : **CONJUGATED POLYMERS AND BLENDS CONTAINING CARBAZOLE, REPRESENTATION AND USE THEREOF**
Docket No. : **14113-00026-US**

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
40l Dulany Street
Alexandria, VA 22314

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

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

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

ASHLEY I. PEZZNER
CONNOLLY BOVE LODGE & HUTZ LLP
1007 NORTH ORANGE STREET
P O BOX 2207
WILMINGTON DE 19899

OL

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HELLER EHRMAN LLP
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SAN DIEGO CA 92122

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Kevin Finehing YEE, et al	:	
Application No. 10/544,452	:	DECISION ON PETITION
Filed: December 6, 2005	:	
Docket No. 42478-0002	:	

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, August 4, 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 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 $1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 3739 for appropriate action by the Examiner in the normal course of business.

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

cc: MICHAEL J. BUJOLD
DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD, NH 03301-2931

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NEW YORK NY 10112-4498

MAILED
JUL 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,341,928	:	
Issued: March 11, 2008	:	
Application No. 10/544,498	:	NOTICE
Filed: August 3, 2005	:	
Title: SYSTEM AND PROCESS FOR PROCESSING A PLURALITY OF SEMICONDUCTOR THIN FILMS WHICH ARE CRYSTALLIZED USING SEQUENTIAL LATERAL SOLIDIFICATION TECHNIQUES	:	

This is in response to the paper under 37 CFR 1.27(g)(2), filed July 11, 2011, requesting that the Office change the status of the patent application from small entity to large entity.

The request is granted.

The Office acknowledges this notification that small entity status is no longer appropriate. The Office has removed the status as a small entity and updated its records 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 inquires may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/22/10 **Paper No.**: _____

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/544567 Patent No.: 2510622 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: _____

PHILIP TUCKER 1745

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PHILIP S. JOHNSON
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NEW BRUNSWICK NJ 08933-7003

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Patent No. 7,585,861	:	DECISION ON REQUEST FOR
LEWI et al.	:	RECONSIDERATION OF
Issue Date: September 8, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/544,584	:	
Filed: October 21, 2006	:	
Atty Docket No. PRD-2021USPCT	:	

This is a decision on the APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154(b) WITHIN ONE MONTH OF RECEIPT OF THE DECISION ON REQUEST FOR RECALCULATION, 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 one hundred four (104) days.

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

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

In the present petition, patentee calculated the B delay incorrectly. 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 February 7, 2003. 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, August 8, 2005. Thus, B delay is 160 days, counting the number of days beginning on August 9, 2008, and ending on January 15, 2009, the day before the filing of the Request for Continued Examination. See 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.703(b).

Accordingly, the patent term adjustment remains 98 days (0 days of A delay + 160 days of B delay - 62 days of applicant delay).

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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GARY C. COHN, PLLC
215 E. 96TH STREET #19L
NEW YORK, NY 10128

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Akihiro Hattori, et al.
Application No. 10/544,799
Filed: August 4, 2005
Attorney Docket No. TIP 041

DECISION ON PETITION

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 18, 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 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received August 5, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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Patent No. : 7,713,778 B2
Ser. No. : 10/544,801
Inventor(s) : Li et al.
Issued : May 11, 2010
Title : NANOSTRUCTURED CASTING OF ORGANIC AND BIO-POLYMERS IN POROUS SILICON TEMPLATES
Docket No. : 0321.67387
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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AUG 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Li et al.	:	
Application No. 10/544801	:	DECISION
Filing or 371(c) Date: 01/11/2006	:	ON PETITION
Patent No.: 7713778	:	
Issue Date: 05/11/2010	:	
Attorney Docket Number: 0321.67387	:	

This is a decision on the "Request to Correct Assignee on Patent under 37 CFR 3.81(b)," filed July 22, 2011, 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 petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate 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 after issuance of this application into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Paper No.

UNION CARBIDE CHEMICALS AND
PLASTICS TECHNOLOGY CORPORATION
P.O. BOX 1967
MIDLAND MI 48641-1967

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JAN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Patterson et al.	:	
Patent No. 7,569,721	:	ON APPLICATION FOR
Issue Date: 08/04/2009	:	PATENT TERM ADJUSTMENT
Application Number: 10/544,817	:	
Filing Date: 08/05/2005	:	
Attorney Docket Number: UC18038A	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed on September 28, 2009, which is treated as a petition under 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 613 days to 893 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 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**

On August 4, 2009, the subject application issued as U.S. Patent No. 7,569,721, with a patent term adjustment of 613 days. On September 28, 2009, the subject request for reconsideration was filed.

Patentees assert entitlement to a period of adjustment of 364 days pursuant to 37 CFR 1.705(b).

The "B" delay period is 256 days, not 364 days as asserted 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 August 29, 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, August 29, 2005. Thus, the period of delay is 340 days, counting the number of days beginning on August 30, 2008, the day after the date three years after the date the national stage commenced, and ending on August 4, 2009, the date the patent issued. Considering the overlapping period of 84 days, from May 13, 2009, the day after the date four months after the date the issue fee was paid, until August 4, 2009, the date the patent issued, the non-overlapping period of adjustment is 256 (340 - 84) days.

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 February 28, 2003. 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 August 28, 2005. As August 28, 2005, fell on a Sunday, the commencement date is shifted to August 29, 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 August 29, 2005.

Accordingly, the period of adjustment under 37 CFR 1.702(a)(1) is the period beginning on October 30, 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 March 17, 2008, fourteen months and 505 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 505 days rather than 529 days. The 529 day period of adjustment for Office delay will be removed and a 505 day period will be entered.

The patent term adjustment at the time of issuance of the patent is 845 days (589 (505 + 84) days of Office delay + 340 days of three years delay - 84 overlapping days - 0 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 $200.00 fee set forth in 37 CFR 1.18(e) was submitted on application for patent term adjustment filed December 8, 2008. No additional fees are required on request for reconsideration of the decision on the application for patent term adjustment.

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 forty-five **(845)** 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 : 7,569,721 B2

DATED : **Aug. 4, 2009** **DRAFT**

INVENTOR(S) : Patterson 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 613 days.

Delete the phrase "by 613 days" and insert – by 845 days--

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PILLSBURY WINTHROP SHAW PITTMAN LLP
ATTENTION: DOCKETING DEPARTMENT
P.O BOX 10500
MCLEAN, VA 22102

MAILED
JAN 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Ivics et al.	:	
Application No. 10/544,971	:	DECISION ON PETITION
Filed: June 16, 2006	:	
Attorney Docket No. 009848-0316855	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 7, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the three month extension of time filed December 6, 2010, the date of abandonment of this application is December 8, 2010. A Notice of Abandonment was mailed January 3, 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 Notice of Appeal and fee of $270, (2) the petition fee of $810 and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1633 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ROBERT BEDGOOD
12255 EL CAMINO REAL, SUITE 300
SAN DIEGO, CA 92130

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/545,003	09/26/2005	Pierre Litalien	05108	3283

23338 7590 10/04/2010
DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

EXAMINER
FOGARTY, CAITLIN ANNE

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
10/04/2010	PAPER

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

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

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Mailed :
In re application of
Pierre Litalien
Serial No. 10/545,003
Filed: September 26, 2005
For: METHOD FOR WARM SWAGING AL-MG ALLOY PARTS

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO REOPEN PROSECUTION AFTER APPEAL DUE TO A NEW GROUND OF REJECTION IN EXAMINER'S ANSWER filed on June 18, 2010.

On April 21, 2009, an appeal brief was filed by applicants. On May 10, 2010, an Examiner's Answer was mailed in response to said brief.

On June 18, 2010 the instant petition under 37 CFR 1.181 was timely filed to formally request reopening of prosecution due to a new ground of rejection raised in the Examiner's Answer.

DECISION

Petitioner asserts that the Examiner's Answer contains a new ground of rejection. At paragraph bridging pages 14-15 of the Examiner's Answer, the Examiner states:

> "[i]n view of Appellant's argument, the Examiner takes the position that the instant claim 24 language 'drawing the heated blank using a tool heated at least partially to a temperature of between 150 and 350 C' does not in its broadest interpretation mean that the tool must be pre-heated. Rather the Examiner's broadest reasonable interpretation of claim 24 is that the tool must be heated during the drawing process."

In view of the Examiner's statement, Petitioner argues that had this argument been made at anytime during prosecution of the application, Appellant could have made a clarifying amendment to establish that the tool includes heating means.

It is Petitioner's position that the broad interpretation for the language of claim 24, newly provided by the Examiner in the Answer is a new ground of rejection.

Section 1208.01 of the MPEP states:

> 37 CFR 1.193(a)(2) prohibits the entry of a new ground of rejection in an examiner's answer. At the time of preparing the answer to an appeal brief, however, the examiner may decide that he or she should apply a new ground of rejection against some or all of the appealed claims. In such an instance where a new ground of rejection is necessary, the examiner should reopen prosecution. The examiner must obtain supervisory approval in order to reopen prosecution after an appeal. See MPEP § 1002.02(d).
>
> There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976).
>
> Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. At 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

In the instant case, the statutory basis for the rejection remains the same as that which was set forth in the final rejection. The noted broadest reasonable interpretation taken by the Examiner was made in view of arguments presented in Appellant's brief. Moreover, because claims are given its broadest and reasonable interpretation, it is found that the examiner's action is proper. Therefore, there is no new ground of rejection. The basic thrust of the rejection remains the same in the Examiner's Answer such that an appellant has been given a fair opportunity to react to the rejection.

Accordingly, the petition is **DENIED**. The Application remains under Appeal and will be forwarded to the Board of Appeals for consideration thereof.

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

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

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P.O. BOX 10395
CHICAGO, IL 60610

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In re Patent No. 7,486,182 :
Issue Date: February 3, 2009 :
Application No. 10/545,212 : ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. 56/444 :

This is a decision on the petition filed May 4, 2009 and resubmitted on July 13, 2011, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/06/2010

Applicant	: Wittich Kaule	: DECISION ON REQUEST FOR
Patent Number	: 7655381	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/545,261	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **947** 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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LRK Patent Law Firm
1952 Gallows Rd
Suite 200
Vienna VA 22182

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OFFICE OF PETITIONS

In re Application of	:	
Ui Jin Oh	:	
Application No. 10/545,415	:	ON PETITION
Filed: June 5, 2006	:	
Attorney Docket No. P10078US	:	

This is a decision on the renewed 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 2, 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)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 3, 2008. The Notice of Abandonment was mailed April 29, 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 (previously submitted); and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,629,362	:	DECISION ON REQUEST FOR
MITSUYA et al.	:	RECONSIDERATION OF
Issue Date: December 8, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/545,424	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date:	:	CERTIFICATE OF CORRECTION
April 24, 2006	:	
Attorney Docket No. BY0005P	:	

This is a decision on the petition filed on January 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 eight hundred fourteen (814) 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 **eight hundred eighty-four (884) days.**

The "B" delay period is 480 days, not 228 days. In calculating the "B" delay period, patentee used the date of April 24, 2006, as the date the national stage commenced under 35 U.S.C. 371. 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 37 CFR 1.702(b). The priority date of this application is April 13, 2003. The date that is 30 months from the priority date is Saturday, August 13, 2005. As the national stage cannot commence on a weekend or federal holiday, the date the national stage commenced in this application is Monday, August 15, 2005. Thus, "B" delay is 480 days, counting the

number of days beginning on August 16, 2008, and ending on December 8, 2009, the date of issuance. See 37 CFR 1.703(b). However, A delay and B delay overlap by 182 days (from August 16, 2008 to February 13, 2009).

Accordingly, the patent term adjustment is 884 days (600 days of A delay + 480 days of B delay - 182 days of overlap - 14 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 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 **eight hundred eighty-four (884) 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 : 7,629,362 B2

DATED : Dec. 8, 2009 **DRAFT**

INVENTOR(S) : Mitsuya 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 586 days

Delete the phrase "by 586 days" and insert – by 884 days--

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/02/2010

Applicant	: Roland Bachmann	: DECISION ON REQUEST FOR
Patent Number	: 7653467	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/545,433	: OF WYETH
Filed	: 04/18/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO IL 60606

In re Application of	:	
Bhat, et al.	:	DECISION ON APPLICATION
Application No. 10/545,472	:	FOR
Filed: August 12, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. **MONS:235US**	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 24, 2010. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from five hundred and two (502) days to nine hundred and seventy (970) 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 **nine hundred and seventy (970) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 24, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is five hundred and two (502) days.

In response, applicant timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment

[1] The Office records indicate that the Issue Fee payment was received on June 24, 2010.

of the fee set forth in 37 C.F.R. § 1.18(e). Applicant requests that the patent term adjustment be corrected to 970 days.

Applicant asserts that the adjustment to the patent term under 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) should be 970 days, not 153 days. Specifically, applicant states that:

> …it appears that the PTO erred in calculating the delay period between the completion of the application requirements under 35 U.S.C. 371(c) and the first Office Action under 35 U.S.C. 132.
>
> The PTO indicated that the first Office action was the "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure" (the "Notice to Comply") mailed on June 16, 2008…neither of these paper is an Action as defined by 35 U.S.C. 132 and required under 37 CFR 1.703(a)(1)…
>
> …Accordingly, the first Action under 35 U.S.C. 132 in the case was the Action mailed on June 10, 2009, nearly four years after the completion of the requirements under 35 U.S.C. 371(c) on August 14, 2009. Likewise…all Applicants' responses to action under 35 U.S.C. 132 were timely and no Applicant delay under any provision of 37 CFR 1.704 were present.

Excerpt taken from "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 24, 2010, pgs. 2-3.

Applicant's argument has been considered and is persuasive. A review of the application file history reveals that the first Office Action under 36 U.S.C. 132 was mailed on June 10, 2009. 37 CFR 1.703(a)(1) states that the period of adjustment under § 1.702(a) is the sum of the following periods: (1) 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. Accordingly, the period of adjustment under 37 CFR 1.703(a)(1) and 1.702(a)(1) is 970 days, 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(c), October 15, 2006, and ending on the date of an action under 35 U.S.C. 132 was mailed, June 10, 2009. The period of adjustment of 153 will be removed and a period of adjustment of 970 will be entered.

It is further noted that a reduction to the patent term adjustment of 262 days was entered for the filing of an Information Disclosure Statement on May 28, 2009. This reduction is unwarranted because the Information Disclosure Statement was filed prior to the mailing of an Office action under 35 USC 132 and applicants, therefore, could not have filed a reply under 37 CFR 1.111 or 1.113. If applicants filed no response under 37 CFR 1.111 or 1.113, it follows that the Information Disclosure Statement could not be considered a supplemental response, or paper, subject to a reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(8). It is further noted that, although the Information Disclosure Statement was filed less than one month before the mailing of the Office action under 35 USC 132, the filing of the Information Disclosure Statement did not require a supplemental Office action to be mailed. Accordingly, the filing of the Information Disclosure Statement would not be subject to a reduction under 37 CFR 1.704(c)(6). The reduction to the patent term adjustment of 262 is being removed, accordingly.

In view thereof, the correct patent term adjustment at the time of the mailing of the Notice of Allowance is 970 days (970 days of Office delay - 0 days of applicant delay).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

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. 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.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

PALM INTRANET

Day : Monday
Date: 8/9/2010
Time: 10:58:29

PTA Calculations for Application: 10/545472			
Application Filing Date:	08/12/2005	PTO Delay (PTO):	764
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	262
Post-Issue Petitions:	0	Total PTA (days):	970
PTO Delay Adjustment:	468		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	08/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	468		
53	03/24/2010	MAIL NOTICE OF ALLOWANCE			
52	03/22/2010	ISSUE REVISION COMPLETED			
51	03/22/2010	DOCUMENT VERIFICATION			
50	03/22/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	03/22/2010	EXAMINER'S AMENDMENT COMMUNICATION			
48	03/16/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	03/22/2010	NOTICE OF ALLOWABILITY			
46	03/10/2010	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
45	03/12/2010	DATE FORWARDED TO EXAMINER			
44	03/10/2010	AMENDMENT AFTER FINAL REJECTION			
43	05/28/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		262	30
42	12/10/2009	MAIL FINAL REJECTION (PTOL - 326)			
41	12/02/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	12/07/2009	FINAL REJECTION			
39	10/05/2009	DATE FORWARDED TO EXAMINER			
38	09/10/2009	RESPONSE AFTER NON-FINAL ACTION			
37	06/10/2009	MAIL NON-FINAL REJECTION	153		30
36	06/08/2009	NON-FINAL REJECTION			
33	05/28/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	05/28/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	03/27/2009	DATE FORWARDED TO EXAMINER			
30	09/08/2008	RESPONSE AFTER NON-FINAL ACTION			
29	03/18/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
28	03/12/2009	CORRESPONDENCE ADDRESS CHANGE			
27	08/14/2005	371 COMPLETION DATE			
26	02/10/2009	APPLICATION RETURN FROM OIPE			
25	02/10/2009	FILING RECEIPT			
24	02/10/2009	NOTICE OF DO/EO ACCEPTANCE MAILED			
23	11/19/2008	ADDITIONAL APPLICATION FILING FEES			
22	11/19/2008	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
21	12/11/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
20	10/27/2008	NOTICE OF DO/EO DEFECTIVE RESPONSE MAILED.			
19	09/08/2008	ADDITIONAL APPLICATION FILING FEES			
18	09/08/2008	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
17	09/08/2008	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
16	10/20/2008	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
15	07/01/2008	SEQUENCE DISCLOSURE PROBLEMS			
14	06/26/2008	ADDITIONAL APPLICATION FILING FEES			
13	06/15/2006	PRE-EXAM OFFICE ACTION WITHDRAWN			
12	06/26/2008	APPLICATION RETURN TO OIPE			
11	06/16/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	611		27
10	05/22/2008	MISCELLANEOUS ACTION WITH SSP			
8	04/18/2008	CASE DOCKETED TO EXAMINER IN GAU			
7	08/13/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
4	06/15/2006	APPLICATION DISPATCHED FROM OIPE			
3	06/15/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
2	03/22/2006	CLEARED BY OIPE CSR			

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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MCCARTER & ENGLISH, LLP NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

In re Application of
William S. Oakley
Application No. 10/545,485
Filed: August 12, 2005
Attorney Docket No.: 120597-00003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed October 14, 2010. A Notice of Abandonment was mailed on May 9, 2011. On July 20, 2011, 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 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[1].

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted July 20, 2011 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired. Since no extension of time fees are due on a petition for revival, the $555 extension fees submitted after abandonment are being credited to counsel's deposit account.

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

This application is being referred to Technology Center AU 2627 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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Patent No. 7,968,103 Issued: June 28, 2011 Application No. 10/545,500 Filed: January 30, 2007 Attorney Docket No. 000659-0030-105 (ABX-PF1 CON4)	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR RECONSIDERATION OF DECISION ON PATENT TERM ADJUSTMENT" filed August 29, 2011. The request is being treated under 37 CFR 1.705(d).

The request is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On June 28, 2011, the above-identified application matured into U.S. Patent No. 7,968,103 with a revised patent term adjustment of 869 days. On August 22, 2011, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 877 days.

Patentee disputes the reduction of 8 days for applicant delay and argues that the March 3, 2011 Amendment under 37 C.F.R. § 1.312 was filed to correct an obvious clerical error introduced in the Examiner's Amendment attached to the February 18, 2011 Notice of Allowability, as guided by p. 3 of the Examiner's Amendment and therefore should not be deemed a failure to engage in reasonable efforts to conclude processing or examination of an application under 37 CFR § 1.704(c)(10).

Applicant's argument has been considered but is not found to be persuasive.

A review of the file reveals that 8 days were deducted for applicant delay for a miscellaneous incoming letter filed on March 3, 2011 after allowance of an Application for Patent Term Adjustment. The reduction in question, after the mailing of the Notice of Allowance was an AMENDMENT AFTER NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.312.

37 CFR § 1.704(c)(10) provides that:

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

The reduction has been considered a proper a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

An amendment under 37 CFR 1.312 is clearly stated as a failure to engage. It is undisputed that such an amendment was filed. The fact that applicant believes the amendment was requested by the Examiner does not negate the fact that applicant by definition failed to engage in reasonable efforts to conclude examination and therefore interfered with the patent issuance process by filing the amendment.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

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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SEP 30 2010

OFFICE OF PETITIONS

In re Application of

Matthiessen, et al.

Application No. 10/545,537

Filed: August 12, 2005

Attorney Docket No. ITC-333US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed January 20, 2009.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 5, 2008, after it was believed that a proper response was not received to the non-final Office action mailed June 4, 2008, which set a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed January 14, 2009.

Petitioner maintains that a proper response was filed electronically on November 3, 2008, with a request for an extension of time within the second month. As evidence of the same, petitioner provides a copy of the Electronic Filing Acknowledgement receipt whereby the USPTO acknowledged receiving the response on November 3, 2009.

Petitioner's argument has been considered and is persuasive. A review of the application file history reveals that response was of record on November 3, 2008. Further the Electronic Acknowledgement Receipt is akin to an Office date-stamped postcard which serves as *prima facie* evidence of receipt of the document in question by the USPTO. Based on the aforementioned, the holding of abandonment was improperly imposed as a proper response to the final Office action was received prior to the expiration of the period set for reply.

The application file is being forwarded to Technology Center 3600, GAU 3632 for further processing which will include withdrawal of the abandonment status of the application and response filed November 3, 2008.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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In re Patent No. 7,935,304	:	
Issue Date: May 3, 2011	:	
Application No. 10/545,621	:	DECISION ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. RMCM-38247	:	

This is a decision on the Request For Certificate of Correction, which is being treated as a Petition Under 37 CFR §3.81(b), filed October 26, 2011, 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:

"Magnesium Electron Ltd."

to:

--Magnesium Elektron 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 the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was submitted. However, the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. 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. 7,935,304.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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Patent No. : 7968136 B2
Application No.: 10/545709
Inventor(s) : Ze'ev Schmilovitch
Issued : 06/28/2011
Attorney Docket No.: 28214-0002US1

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.

A certificate of correction will be issued for the remaining errors noted on your request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 08/02/2011

Address: S. Peter Ludwig
Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

ts

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON DC 20005-3096

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JUN 10 2011

OFFICE OF PETITIONS

In re
Elgar, et al.
Application No. 10/545,833
Filed: November 2, 2006
Attorney Docket No. 086887-0037

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 17, 2011.

The fee deficiency submission under 37 CFR 1.28 of $4544 is hereby accepted.

The change of status to large entity has been entered.

The application is being forwarded to Group Art Unit 2172 for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Studebaker & Brackett PC
One Fountain Square
11911 Freedom Drive, Suite 750
Reston VA 20190

MAILED
MAR 02 2011
OFFICE OF PETITIONS

In re Patent No. 7,242,127 :
Issue Date: July 10, 2007 :
Application No. 10/545,966 : DECISION ON PETITION
Filed: July 12, 2006 :
Attorney Docket No. 740675-62 :

This is a decision on the Request To Correct The Assignee Name Under 37 C.F.R. 3,81(b), filed October 29, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The request is being treated as a Petition under 37 CFR §3.81(b).

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

Petitioner requests that the present Petition was submitted to correct assignee's name on the previously submitted PTOL-85B and that such error to be corrected was inadvertent. Accordingly, petitioner requests that a Certificate of Correction be issued to correct the 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. However, after reviewing the Office records, a corrected Certificate of Correction was previously signed and sealed on January 4, 2011. (copy enclosed)

Inquiries related this communication should be directed to Cheryl Gibson-Baylor 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.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,242,127 B2
APPLICATION NO. : 10/545966
DATED : July 10, 2007
INVENTOR(S) : Atsushi Okamoto

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:

Item (73) Assignee should read: NAMIKI SEIMITSU HOUSEKI KABUSHIKI KAISHA, Tokyo (JP)

Signed and Sealed this
Fourth Day of January, 2011

David J. Kappos

David J. Kappos
Director of the United States Patent and Trademark Office

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COOPER & DUNHAM, LLP
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20TH FLOOR
NEW YORK, NY 10112

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Lars Petersen :
Application No. 10/546,067 : DECISION ON PETITION
Filed: October 13, 2006 :
Attorney Docket No. 1175/75015 :

This is a decision on the petition, filed July 2, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the non-final Office action mailed October 1, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 22, 2010.

Petitioner asserts(See declaration of Randolph McQueen, item 6) that the Office action dated October 1, 2009, was not received and that a request for change of address (Request) was filed on December 4, 2008. A review of the Office records does not indicate that the Request was ever received by the Office. The instant petition does not include evidence that the Request was filed on December 4, 2008. Therefore, since petitioner has not established that the non-final Office action was mailed to an incorrect address, the application was properly abandoned. Petitioner needs to establish that a change of address was indeed filed on December 4, 2008.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. §

41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosure: Non-Final Office Action of October 1, 2009

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.
10/546,067	10/13/2006	Lars Petersen	1175/75015	1146

7590 10/01/2009

Donald S Dowden
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

EXAMINER
PHAM, EMILY P

ART UNIT	PAPER NUMBER
2838	

MAIL DATE	DELIVERY MODE
10/01/2009	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.

Office Action Summary	Application No.	Applicant(s)	
	10/546,067	PETERSEN, LARS	
	Examiner	Art Unit	
	Emily Pham	2838	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 29 June 2009.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-8,11-17 and 21-25 is/are rejected.

7)☐ Claim(s) 9,10 and 18-20 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 8/18/2005 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 6/29/2009.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 6/29/2009 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Applicant is advised to check whether the document numbers for Hagen and Morita references are correct in the information disclosure statement.

Claim Objections

2. Claim 10 is objected to because it has a typo error in line 1 "haracterized".

3. Claim 25 is objected to because it has inconsistent typo formats in lines 2-5, 8, 14, and 19: state A, state (A), state B, and state (B).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 23, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationship is the relationship between electronic breakers and voltage source and current supply of the switch mode power supply.

6. Claims 1, 3-8, 11-17, and 21-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the current source" in lines 4 and 5, claim 11 recites the limitation "the current source" in line 4, claim 12 recites the limitation "the current source" in line 2, claim 13 recites the limitation "the current source" in lines 2 and 4, claim 14 recites the limitation "the current source" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the intermediate circuit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "one side" twice in lines 2 and 3, it is unclear whether they are the same.

Claim 3 recites the limitation "the same core" in line 6, there is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "an output" twice in lines 2 and 4, it is unclear whether they are the same.

Claim 4 recites the limitation "said input of the second electronic breaker component" in line 9, there is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "said second diode" in lines 8 and 9, there is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "said diodes" in line 6, there is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "said electronic breaker components" in line 15, it is unclear it refers to what of following electronic breaker components: "a first electronic breaker component" in line 3, "second electronic breaker component" in lines 4 and 5, "an electronic breaker component" in line 11, or "an electronic breaker component" in line 13.

Claim 6 recites the limitations "first winding" in lines 3 and 9, "second winding" in lines 5 and 10, "said windings" in lines 12 and 13, and "the windings" in lines 13; those limitations create confusing antecedent basis.

Claim 6 recites the limitations "an electronic breaker component" in lines 4, 18, and 20, "a second electronic breaker component" in lines 5 and 6, "said electronic breaker components" in lines 20 and 21; those limitations create confusing antecedent basis.

Claim 7 recites the limitations "a first electronic breaker component" in lines 3 and 14, "a second electronic breaker component" in line 4, "third electronic breaker component" in lines 5, 17, and 18, "fourth electronic breaker component" in line 6; "an electronic breaker component" in lines 14, 15, 16, and 17, "said electronic breaker components" in line 22; those limitations create confusing antecedent basis.

Claim 8 recites the limitation "the same core" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the same core windings" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the controlled voltage source" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitations "an inductor" in line 2, "said inductor" in line 3, "the inductor" in lines 4, 5, and 6; those limitations create confusing antecedent basis, and it is unclear how many different inductors are disclosed.

Claim 16 recites the limitation "the electronic breaker components, diodes and voltages" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the flow" in lines 2 and 6, claim 19 recites the limitation "the flow" in line 10, claim 20 recites the limitation "the flow" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitations "a flow" in line 5, "a flow" in line 20, and "the flow" in line 21; those limitations create confusing antecedent basis, and it is unclear how many different flows are disclosed.

Claim 22 recites the limitation "the voltage supply" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 22-24 recite the limitation "Method of controlling the switch mode power supply according to claim 1" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim because claim 1 does not disclose "method of controlling the switch mode power supply".

Claim 25 recites the limitation "Method of controlling the switch mode power supply with galvanic isolation according to claim 21" in lines 1 and 2.

There is insufficient antecedent basis for this limitation in the claim because claim 21 does not disclose "method of controlling the switch mode power supply".

Claim 25 recites the limitation "state (A)" in line 8, and "state (B)" in lines 14 and 19. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 11, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cuk (USP 6,400,579).

Regarding independent claim 1 (as best understood): Cuk **(FIG 51a, FIG 51b, FIG 52a, FIG 52b)** discloses switch mode power supply having an input, an output and a circuit in between, characterized in that a voltage source **(Vg/Vc)** is provided in the intermediate circuit between the input and the output and that a current supply **(current source)** is provided across the input, the voltage of the voltage source **(Vg/Vc)** being dependent on the voltage of the current source **(current source) (naturally the voltages across components in the same circuit are dependent on one another.)**.

Regarding claim 2 (as best understood): Cuk **(FIG 51a, FIG 51b, FIG 52a, FIG 52b)** discloses the voltage of the voltage source **(Vg/Vc)** either corresponds to the voltage of the current source **(current source)** scaled with a fixed ratio or is a ratio varying with time.

Regarding claim 11 (as best understood): Cuk **(FIG 51a, FIG 51b, FIG 52a, FIG 52b)** discloses inductors **(L1, Lm)** of the switch mode power supply are located on the same core as windings of the controlled voltage source **(Vg/Vc)**.

Regarding claim 17 (as best understood): Cuk **(FIG 51a, FIG 51b)** discloses a galvanic isolation with a primary side and a secondary side, characterized in that the galvanic isolation is placed after the voltage source **(Vg)** and before the output and comprising a second voltage source **(Vc)** on the primary side and a second current source **(current source of im)** on the secondary side, said second voltage source **(Vc)** and said second current source **(current source of im)** exchanging energy via the flow.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claim 12, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Cuk (USP 6,400,579) as applied to claim 1 above, in view of Pruitt (USP 4,761,722).

Cuk discloses the claimed invention except for current source connected from a negative pole of the output and to a connection point between the voltage source and an anode of a diode. However, Pruitt **(Fig 1, Fig 2, line 61 of col. 2 - line 8 of col. 4)** teaches it is well known in the art to have current source **(10)** connected from a negative pole of the output and to a connection point between the voltage source **(220)** and an anode of a diode **(14)**.

Since Cuk and Pruitt are both from the same field of endeavor, the purpose disclosed by Pruitt would have been recognized in the pertinent art of Cuk. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize rapid transient response circuitry in the DC-to-DC converter of Cuk, as taught by Pruitt, for the purpose of effectively regulating large amounts of power in a switching power supply **(Pruitt, lines 15-19 of col. 1)**.

11. Claims 15 and 16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cuk (USP 6,400,579) as applied to claim 1 above, in view of Lopresti et al (USP 6,324,077).

Cuk discloses the claimed invention except for one side of an inductor connected to the anode of a diode, the other side of said inductor connected to the negative pole of the output, the cathode of said diode connected to the positive pole of the output, the inductor wound on the same core as the inductor

and the inductor having the same dot notation as the inductor, and electronic breaker components, diodes and voltages having opposite polarities. However, Lopresti et al **(Fig 1)** teaches it is well known in the art to have the connection like one side of an inductor **(22, 23, 24)** connected to the anode of a diode **(26)**, the other side of said inductor **(22, 23, 24)** connected to the negative pole of the output, the cathode of said diode **(26)** connected to the positive pole of the output, the inductor **(22, 23, 24)** wound on the same core as the inductor **(22, 23, 24)** and the inductor **(22, 23, 24)** having the same dot notation as the inductor **(22, 23, 24)**, and electronic breaker components **(14, 16)**, diodes **(26, 28)** and voltages having opposite polarities.

Since Cuk and Lopresti et al are both from the same field of endeavor, the purpose disclosed by Lopresti et al would have been recognized in the pertinent art of Cuk. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the input stage of switch mode power supply in the DC-to-DC converter of Cuk, as taught by Lopresti, for the purpose of providing a simple but effective drive circuitry for the switch mode power supply **(Lopresti, lines 38-40 of col. 2)**.

12. Claims 23 and 24, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cuk (USP 6,400,579).

Cuk discloses the claimed invention except for a duty cycle of electronic breaker components of galvanic isolation being predominantly 50/50 and adjusted to maintain a mean value for flow of approximately zero. It would have been obvious to one having ordinary skill in the art at the time the invention was

made to obtain a predominant 50/50 duty cycle and adjusted duty cycle to maintain a mean value for flow of approximately zero, since it has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch,* 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Allowable Subject Matter

13. Claims 9, 10, and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 3-8, 13, 14, 21, 22, and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Igarashi et al (USP 6,108,218) discloses switching power supply with power factor control wherein the voltage of the voltage source being dependent on the voltage of the current source.

Contact Information

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Pham whose telephone number is (571)270-3046. The examiner can normally be reached on Mon-Thu (7:00AM - 6:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Lewis can be reached on (571) 272 - 1838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jessica Han/
Primary Examiner, Art Unit 2838
September 2009

EP

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK, NY 10112

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Lars Petersen	:	
Application No. 10/546,067	:	DECISION ON PETITION
Filed: October 13, 2006	:	
Attorney Docket No. 1175/75015	:	

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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 1, 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 2, 2010.

The petition is hereby **DISMISSED**.

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

As to 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. Therefore, since the petition is not signed the entire delay statement is not acceptable.

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584

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
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COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK, NY 10112

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of :
Lars Petersen :
Application No. 10/546,067 : DECISION ON PETITION
Filed: October 13, 2006 :
Attorney Docket No. 1175/75015 :

This is a decision on the petition filed May 23, 2011, captioned "PETITON TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION" which is being treated as a renewed petition under the unintentional provisions of 37 CFR 1.137(b), 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 October 1, 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 2, 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 1636 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
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): 10/546,158	Patent Number (if applicable):
First Named Inventor: Kengo AKIMOTO	Title of Invention: Use of arachidonic acid for normalization of infradian rhythm

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 04/19/2011
Name (Print/Typed) William R. Childs, Ph.D., Esq.	Practitioner Registration Number 62,316

***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 _____ 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
www.uspto.gov

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Akimoto et al.	:	
Application No. 10/546,158	:	DECISION ON PETITION
Filed: August 22, 2005	:	
Attorney Docket No. 47237-0564-00-US (216944)	:	

This is a decision on the request filed April 19, 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 November 12, 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 17627 for re-mailing the Office action of November 12, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120321

DATE : March 21, 2012

TO SPE OF : ART UNIT 2486

SUBJECT : Request for Certificate of Correction on Patent No.: 8081678

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 request to change "block-by block" to "block-by-block" does not introduce new matter or change the scope of the claims, and is approved.

There is no support for claiming priority to provisional application 60/485,207. Therefore, this request is not approved.

/Mehrdad Dastouri/
SPE AU 2486

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/16/10

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 10546455 Patent No.: 7754135

CofC mailroom date: 12/07/10

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: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Cl J 1742

Christina Johnson

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Leon Mentink et al.	:	
Application No. 10/546,606	:	DECISION ON PETITION
Filed: August 23, 2005	:	
Attorney Docket No. 0600-1045	:	

This is a decision on the LETTER, filed September 13, 2010, which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **Dismissed.**

Petitioner requests that the appeal brief, filed September 13, 2010 under EFS ID 8400670 be expunged from the record. Petitioner gives no reason for expungement of this brief other than to request substitution of another appeal brief filed on the same day. The petition fee set forth in 37 CFR 1.17(g) has been charged to petitioner's deposit account as authorized.

The petition is deficient because there is no statement that:

(B) 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;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Telephone inquiries concerning this communication 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
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
SEP 27 2010
OFFICE OF PETITIONS

In re Application	:
Ki Whan Hong	: DECISION ON APPLICATION FOR
Application No. 10/546,632	: PATENT TERM ADJUSTMENT
Filed: August 24, 2005	:
Attorney Docket No. 05273.0098	:
	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT", filed December 30, 2009. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred twenty-eight (528) days to five hundred twenty-nine (529) days.

The application for patent term adjustment is **DISMISSED**.

On September 30, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred twenty-eight (528) days. On December 30, 2009, Applicant timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred twenty-nine (529) days.

---

[1] Applicant filed the application for patent term adjustment on the same date as the issue fee.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of five hundred twenty-eight (528) days based on an adjustment for PTO delay of five hundred ninety (590) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicant's delays of sixty (60) and two (2) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The 590 days of PTO delay is at issue.

Applicant points out that the Office used the completion date of August 25, 2005 as the date used to calculate the 590 days of PTO delay under 37 CFR 1.703(a)(1). Applicant argues that the Office should have used the date of receipt of all 35 U.S.C. 371 requirements - August 24, 2005.

Applicant's 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 August 25, 2005 (i.e. 30 months from the priority date). Commencement is one of the requirements for the 371 completion date. See MPEP 1893.03(b).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred twenty-eight (528)** days (590 days of PTO delay reduced by 62 (60+2) days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 06-0916, as authorized.

The application file is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/11

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10546655 Patent No.: 7850435

CofC mailroom date: 02/11/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
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: All the changes are approved

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/546,665	07/26/2006	Robert M. Jones	20750-008US1 053.US2.PCT	8077

26204 7590 01/27/2011
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
SEAMAN, D MARGARET M

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
01/27/2011	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

JAN 2 7 2011

Fish & Richardson P.C.
P. O. Box 1022
Minneapolis, MN 55440-1022

In re Application of: Jones, et al	:	
Serial No: 10/546,665	:	DECISION
Filed: February 24, 2003	:	ON
Attorney Docket No: 20750-008US1053.US2.PCT	:	PETITION
Title: Phenyl- and Pyridylpiperidine-Derivatives as Modulators of Glucose Metabolism	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181 filed on December 15, 2010.

BACKGROUND

This application was filed under 35 U.S.C. 371 and as such is subject to PCT Unity of Invention practice.

On August 23, 2005, applicants filed a national phase of International Application PCT/US04/05555.

On March 6, 2008, a restriction requirement was made. In a response filed on August 29, 2008, applicants traversed the restriction requirement and pointed out that the Office had failed to apply the unity of invention standard. Applicants pointed out claims 2 and 3 were missing from the restriction. Applicants elected Group I with traverse.

On February 2, 2009, the initial restriction was vacated and a revised restriction requirement between Group I (claims 1-4, 6-10, 12, 14, 16-18, 20, 22-23, 25, 26, 28, 30, 32, 34, 36, 37, and 39-48, drawn to compounds and compositions) and Group II (claims 49-53, 55 and 61, drawn to methods of using the compounds. Further election of a single disclosed species is required. Applicants made a telephonic election of Group I and the compound in Table A on page 49 as the species.

On July 31, 2009, applicants filed a response and an amendment. Applicants confirmed election with traverse of Groups I and the compound in Table A on page 49. Claims 1-4, 6-10,

12, 14, 16-18, 20, 22, 25, 26, 28, 30, 34, 36, 37, 39-48 and 69-82 are read on the elected species. Applicants traverse the restriction on the ground that there is no requirement for a "common core" in order for compounds to meet the requirement for unity of invention. Applicants urged that the examiner failed to show that the special technical feature shared is not a contribution of the prior art.

On October 30, 2009, a non-final Office action was issued. The examiner acknowledged that the claims were novel over all the art of record. The only rejection in the said Office action was a rejection under 112 first paragraph. There is no reason provided as why the amended claims lack of unity of invention.

On April 21, 2010, applicants filed a response. Applicants pointed out the examiner failed to reconsider the restriction requirement and requesting an explanation of finding of lack of unity of invention of the amended claims.

On July 23, 2010, a final Office action was issued. The examiner indicated that the non-elected claims would have been rejoined once the elected invention of Group I is found allowable. There is no response to applicants' requesting of reconsideration of restriction.

On October 20, 2010, an after final response was filed. Applicants again requested reconsideration of the restriction requirement. On November 4, 2010 a telephonic interview was held and the examiner indicated that the present restriction requirement had never been reconsidered and applicant should receive a further Office action addressing their traversal and rejoining the withdrawn claims, if appropriate.

On November 15, 2010, applicants filed a supplemental response. Applicants provided a summary of the interview on November 4, 2010.

On November 23, 2010, an advisory action was mailed. There is no discussion of the restriction and/or the traversal.

On December 15, 2010, the present petition was filed, requesting review and reconsider the restriction requirement and review whether the Office action dated July 23, 2010 was properly made final.

DISCUSSION

The petition and file history have been carefully reviewed.

It is noted that the examiner has never address applicants' traversal and has never provided reasons as to why the amended claims lacks unity of invention. It appears (no art rejections were made) the claimed compounds are novel and thus there is no evidence showing the special technical feature is not a contribution over the prior art. It is noted that applicants' repeated requests of reconsideration of restriction and/or to provide an explanation why claims lack unity of invention have never been addressed. It is also noted that the restriction requirement has

never been made final. There is no examiner's interview summary in the file record. It appears that the examiner agreed to reconsider the traversal in the interview held on November 4, 2010.

Accordingly, the Finality is improper due to the Office action was incomplete. The examiner had not addressed all the issues and/or arguments. The traversal of the restriction/lack of unity should have been fully considered and responded.

DECISION

The petition is **GRANTED** for the reasons set forth above. The Finality is hereby withdrawn.

The application is being forwarded to examiner for further action consistent with this decision after mailing of this decision.
Should there be any questions about this decision, please contact Supervisory Patent examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAILED
JAN 31 2012
OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 8,038,440 Swaelens et al. Issue Date: October 18, 2011 Application No. 10/546,702 Filed: August 24, 2005 Attorney Docket No. 50304/099001 Title: METHOD FOR PLACING AND MANUFACTURING A DENTAL SUPERSTRUCTURE, METHOD FOR PLACING IMPLANTS AND ACCESSORIES USED THEREBY	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed on December 12, 2011, which is being treated as a petition under 37 CFR 1.705(d) informing the Office that the 263 days in the patent term adjustment may be lower than appropriate.

The request for reconsideration of patent term adjustment is **DISMISSED AS UNTIMELY FILED**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 03-2095. No additional fees are required.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

Patentees submitted this request for reconsideration of patent term adjustment (with authorization to charge the required fee), asserting that the correct number of days of applicant delay may be lower than appropriate.

A review of the record shows that additional reductions of 75 and 13 days based upon the submission of supplemental response pursuant to 37 CFR 1.704 (c)(8) occurred prior to the mailing of the Notice of Allowance on July 18, 2011.

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.

The issue fee payment was received in the Office on September 8, 2011. 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 September 8, 2011. 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.

See *Treatment of Letters Stating that the USPTO's Patent Term Adjustment Determination is Greater than what the Applicant or Patentee Believes is Appropriate*, 75 FR 42079 (July 20, 2010).

Consideration of the request for correction of the initial determination of patent term adjustment under 37 CFR 1.705(d) is appropriately dismissed as untimely filed.

Considering the disclosure of record, patentee is not required to, but also is not precluded from filing a terminal disclaimer

disclaiming any period considered in excess of the appropriate patent term adjustment

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
DEC 15 2010
OFFICE OF PETITIONS

JOHNS HOPKINS TECHNOLOGY TRANSFER
100 N. CHARLES ST.
5TH FLOOR
BALTIMORE, MD 21201

In re Application of
Jeffrey D. Rothstein.
Application No. 10/546,860
Filed: September 21, 2005
Attorney Docket No.: P04197-11

ON PETITION

This is a decision on the petition, filed October 20, 2010, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 3, 2010. A Notice of Abandonment was mailed on September 17, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). On October 20, 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 a Notice of Appeal and appeal fee of $270; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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, petitioner is entitled to a refund of the $555 extension fees included with this petition.

Any request for refund must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

This application is being referred to Technology Center AU 1636 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

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

SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of :
Takashi Muramatsu, et al :
Application No. 10/547,011 : ON PETITION
Filed: January 5, 2006 :
Attorney Docket No.: SPO.122 :

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 December 22, 2008, which set a shortened statutory period for reply of three (3) months. In view of the extension of time for 2 months filed May 21, 2009, the application became abandoned on May 23, 2009. A Notice of Abandonment was subsequently mailed on October 26, 2009. On January 25, 2011 the present petition was filed.

There is no indication that the petition is signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Kate H. Murashige appearing on the correspondence 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. If Ms. Murashige desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. It is noted that a copy of a new power of attorney signed by Julia Hill accompanied the present petition. However, the power cannot be accepted since Ms. Hill did not provide her title and it is unclear if the she has the proper authority to sign. 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

[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.

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 $865 extension of time fee submitted with the petition on January 25, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 1644 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KATE H. MURASHIGE
MORRISON & FORESTER, LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130-2040

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Alexandria, VA 22313-1450
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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Merkus, et al.	:	
Application No. 10/547,030	:	ON PETITION
Filed: August 25, 2005	:	
Attorney Docket No. 35437-501N01US	:	

This is in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed February 23, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed August 19, 2010, which set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment with a three month extension of time on February 17, 2011. However, the Amendment failed to place the application in condition for allowance, which the Examiner indicated in an Advisory Action mailed on February 23, 2011. As such, the application became abandoned by operation of law on February 20, 2011. The Office mailed a Notice of Abandonment on March 22, 2011.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application is being forwarded to Group Art Unit 1616 to await applicants' submission of the Appeal Brief.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Rothwell, Figg, Ernst & Manbeck, PC
1425 K Street NW
Suite 800
Washington DC 20005

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Patent No. 7,468,376	:
Almansa Rosales et al.	: DECISION UPON REMAND AND
Issue Date: Dec. 23, 2008	: RECONSIDERATION OF
Application No. 10/547,232	: PATENT TERM ADJUSTMENT
Filed: August 26,2005	: AND NOTICE OF INTENT
Attorney Docket No. 3494-108	: TO ISSUE CERTIFICATE OF
Title: Pyrazolopyridine	: CORRECTION
Derivatives	:

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 four hundred and sixty-seven (467) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred and sixty-seven (467) 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 : 7,468,376

DATED : **December 23, 2008** **DRAFT**

INVENTOR(S) : Almansa Rosale 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 348 days

Delete the phrase "by 348 days " and insert – by 467 days--

Day : Monday
Date: 9/20/2010

PALM INTRANET

Time: 10:17:56

PTA Calculations for Application: 10/547232			
Application Filing Date:	08/26/2005	PTO Delay (PTO):	404
Issue Date of Patent:	12/23/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	56
Post-Issue Petitions:	0	Total PTA (days):	467
PTO Delay Adjustment:	119		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	09/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	119		
62.5	12/03/2008	PTA 36 MONTHS			
62	12/23/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
61	11/04/2008	EXPORT TO FINAL DATA CAPTURE			
60	10/31/2008	FINISHED INITIAL DATA CAPTURE			
59	11/03/2008	DISPATCH TO FDC			
58	11/03/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
57	09/03/2008	ISSUE FEE PAYMENT VERIFIED			
56	09/03/2008	ISSUE FEE PAYMENT RECEIVED			
55	08/06/2008	WORKFLOW - QUERY REQUEST - FINISH			
54	07/15/2008	EMAIL NOTIFICATION			
53	07/15/2008	MAIL EXAMINER'S AMENDMENT			
52	07/10/2008	EXAMINER'S AMENDMENT COMMUNICATION			
49	06/20/2008	PUBS CASE REMAND TO TC			
48	06/24/2008	WORKFLOW - QUERY REQUEST - BEGIN			
46	06/04/2008	ELECTRONIC REVIEW			
44	06/03/2008	MAIL NOTICE OF ALLOWANCE			
43	05/29/2008	ISSUE REVISION COMPLETED			
42	05/29/2008	DOCUMENT VERIFICATION			
41	05/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	05/22/2008	NOTICE OF ALLOWABILITY			
39	04/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	03/20/2008	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
35	04/29/2008	REFERENCE CAPTURE ON IDS			
34	04/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		40	28
33	04/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	04/07/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
31	03/20/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
30	03/20/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
29	04/10/2008	DATE FORWARDED TO EXAMINER			
28	03/20/2008	RESPONSE AFTER NON-FINAL ACTION		16	19
27	03/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	03/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	02/28/2008	EMAIL NOTIFICATION			
24	02/26/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
23	02/12/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
21	12/08/2007	ELECTRONIC REVIEW			
20	12/04/2007	EMAIL NOTIFICATION			
19	12/04/2007	MAIL NON-FINAL REJECTION	404		-1
18	11/29/2007	NON-FINAL REJECTION			
17	02/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	08/26/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	08/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	04/02/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	02/05/2007	REFERENCE CAPTURE ON IDS			
12.7	02/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/26/2005	PRELIMINARY AMENDMENT			
10.7	08/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

10	08/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/26/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8	08/27/2005	371 COMPLETION DATE			
7	04/20/2006	APPLICATION DISPATCHED FROM OIPE			
6	04/20/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	03/21/2006	CLEARED BY OIPE CSR			
4	03/21/2006	CLEARED BY OIPE CSR			
3	03/21/2006	CLEARED BY OIPE CSR			
2	09/13/2005	PCT CLASSIFICATION			
1	08/26/2005	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 and select Refresh.

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OFFICE OF PETITIONS

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of :
Dobie :
Application No. 10/547,239 : ON APPLICATION FOR
Filed: August 25, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. **BIOL0002USA**

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 CFR § 1.705(b)", filed October 13, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is seven hundred and fifty-five (55) days, not forty-two (42) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

The Office is in receipt of the 200.00 for the fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

---

[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 (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions 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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SCHLUMBERGER-DOLL RESEARCH
ATTN: INTELLECTUAL PROPERTY LAW DEPARTMENT
P.O. BOX 425045
CAMBRIDGE MA 02142

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Tardy, et al.	:	
Application No. 10/547,251	:	ON PETITION
Filed: July 3, 2006	:	
Attorney Docket No. 57.0532 US PCT	:	

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.

The application became abandoned October 10, 2010 for failure to timely submit a proper reply to the final Office action mailed July 9, 2010. No petition for extension of time for reply was filed. Notice of Abandonment was mailed February 16, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

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 $1,110.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 2128 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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.
10/547,428	05/24/2006	Kozue Hamamoto	277542US90PCT	1728

22850 7590 01/14/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DUDA, ADAM K

ART UNIT	PAPER NUMBER
2473	

NOTIFICATION DATE	DELIVERY MODE
01/14/2011	ELECTRONIC

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

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

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Bradley D. Lytle
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

MAILED

JAN 14 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: HAMAMOTO et al.
Application No. 10/547,428
Filed: May 24, 2006
For: **RADIO COMMUNICATION SYSTEM AND RADIO COMMUNICATION METHOD**

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on November 23, 2010 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references (AI to AV) listed on the Form PTO-1449 filed with the Information Disclosure Statement (IDS) on September 23, 2005.

A review of the record indicates that the Examiner considered all references, and the Form PTO-1449 was mailed to Applicant on November 18, 2010.

Accordingly as petitioner's relief has already been given the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to Chau Nguyen at 571-272-3126

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Chau Nguyen/

Chau Nguyen, Quality Assurance Specialist
Technology Center 2400

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HOWARD IP LAW GROUP
P.O. BOX 226
FORT WASHINGTON PA 19034

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OCT 14 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Bartos et al.	:	
Application No. 10/547,431	:	
Filed: October 4, 2006	:	
Attorney Docket No. MSI-670-US	:	

This is a notice regarding your request, September 13, 2010, 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.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/02/10

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10547455 Patent No.: 7759321

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.

XXX☒ **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
SPE

1623
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/02/10

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10547455 Patent No.: 7759321

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.

XXX☒ **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
SPE

1623
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Locke Lord LLP
IP Docket Department
3 World Financial Center
New York NY 10281-2101

MAILED
DEC 07 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
Pekonen et al	:	
Application No.: 10/547,461	:	
PCT No.: PCT/US2003/012682	:	PETITION UNDER
Int. Filing Date: 23 April 2003	:	
Attorney's Docket No.: 4208-4130US1	:	
For: SYSTEM AND METHOD... RECEPTION	:	37 CFR 1.78(a)(3)

This is in response to applicants' communication "PETITION UNDER 37 C.F.R. 1.78(a)(3) TO ACCEPT UNINTENTIONALLY DELAYED PRIORITY CLAIM" filed on 13 October 2011 and 18 October 2011.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior filed application, unless previously submitted:

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Regarding requirement (1) a proper reference to the prior-filed nonprovisional application has been included in an amendment to the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

Regarding requirement (2), the surcharge has been provided.

Regarding requirement (3), the proper statement has been provided.

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 and 365(c) 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 applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **GRANTED**.

Any questions concerning this matter may be directed to Rafael Bacares at (571) 272-3276. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center Art Unit 2473.

This application will be forwarded to Technology Center Art Unit 2473 for examination.

Bryan Lin

Bryan Lin
Legal Examiner
PCT Legal Administrative 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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ARNOLD & PORTER LLP (24126)
ATTN: SV DOCKETING DEPT
1400 PAGE MILL ROAD
PALO ALTO CA 94304

MAILED
APR 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,749,695	: DECISION ON
Abbas, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/547,578	: of PATENT TERM ADJUSTMENT
Issue Date: July 6, 2010	: and
Filed: August 7, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. GNE-0278R1	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT C.F.R. 1.705(b)", filed July 29, 2010, which is properly treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected from seven hundred thirty-four (734) days to four hundred seventy-two (472) days.

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

On July 6, 2010, the instant application matured into U.S. Patent No. 7,749,695 with a patent term adjustment of 734 days. The Office determined a patent term adjustment of 734 days based upon 408 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 423 days pursuant to 37 CFR 1.703(b), reduced by 1 and 23 days of Applicant delay pursuant to 37 CFR 1.704(b).

A review of the file reveals that the 408 days of Office delay under 37 CFR 1.703(a)(1) was improperly assessed. Applicants fulfilled the requirements of 35 USC 371 on September 2, 2006. Fourteen months from this date is November 2, 2007. The Office did not mail a first action until November 18, 2008. Accordingly, pursuant to 37 CFR 1.703(a)(1), 382 days of Office delay should have been assessed, not 408 days as originally accorded.

In addition, patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date of the patent was not included in the "B" delay period. The over three year period began on September 3, 2009 (the day after the date that is three years after the completion date) and ended on November 3, 2009 (one day before an RCE was filed on November 4, 2009), and is 62 days. See 35 U.S.C. 154(b)(1)(B). As such, the "B" delay period is 62 days.

Lastly, a review of the file reveals that Applicants should have been assessed additional delay pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on August 13, 2009. Subsequently, Applicants filed an RCE on November 4, 2009, to which the Office responded by mailing a communication on December 17, 2009. Accordingly, 43 days of Applicant delay should have been assessed under 37 CFR 1.704(c)(10).

In view thereof, the correct number of days of patent term adjustment is 377 days (382 days of "A"' delay and 62 days of "B" delay, reduced by 67 (23+43+1) 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 **three hundred seventy-seven (377)** 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 : 7,749,695 B2

DATED : **July 6, 2010**

INVENTOR(S) : Abbas 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 734 days.

Delete the phrase "by 734 days" and insert – by 377 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2012

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10547653 Patent No.: 7411461

CofC mailroom date: June 29, 2009

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1814

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 RESPONSE FOR CERTIFICATE OF CORRECTION

2817

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 04 2011

OFFICE OF PETITIONS

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of	:
Ralph Michael BOHNER	: DECISION GRANTING PETITION
Application No. 10/547,721	: UNDER 37 CFR 1.137(b)
Filed: June 13, 2006	:
Atty. Docket No.: 5517-30-PUS	:

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 final Office action mailed July 12, 2010 ("outstanding Office action"), which set a statutory period for reply of three (3) months. No extension of time under 37 CFR 1.136(a) was obtained. The application thus became abandoned on October 13, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply, (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). In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be: a) Notice of Appeal and appeal fee, b) amendment that *prima facie* places the applicant in condition for allowance, c) the filing of an RCE, or d) the filing of a continuing application under 37 CFR 1.53(b).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE), RCE fee, and Response to the outstanding Office action, (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.

General 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 1644 for further action on the filed Response.

David Buccì
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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EDWARD LANGER
c/o SHIBOLETH YISRAELI ROBERTS ZISMAN & CO.
1 PENN PLAZA-SUITE 2527
NEW YORK NY 10119

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Brandeis, Zeev	:	
Application No. 10/547,791	:	ON PETITION
Filed: May 31, 2006	:	
Attorney Docket No. 1989	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Response to Restriction Requirement, including an election, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 3782 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

MAILED
JUN 16 2011
PCT LEGAL ADMINISTRATION

In re Application of	:
PEKONEN, et al.	:
Application No. 10/547,820	: DECISION ON PETITION
Filed: 02 September 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 915-002.006	:

This is a decision on the petitions under 37 CFR 1.78(a)(3), filed 29 October 2010, to accept an unintentionally delayed claim under 35 U.S.C. § §120 and 365(c) for the benefit of priority to prior-filed international and non-provisional applications.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

Item (1) has not been satisfied.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment to the first sentence(s) of the specification to correct the above matter is required.

It is also noted that the petition refers to an attached Request for Certification of Correction but such is not present in the application file. A Request for Certification of Correction is required to to correct the patent.

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.

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

Boris Milef
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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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

MAILED
AUG 31 2011
PCT LEGAL ADMINISTRATION

In re Patent No. 7,447,930	:DECISION ON PETITION
Issue Date: 29 June 2010	:UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/547,820	:REQUEST FOR CERTIFICATE
International Filing Date: 05 March 2004	:OF CORRECTION
Attorney Docket No. 915-002.006	:

This is a decision on the applicants' Renewed Petition Under 37 CFR 1.78(a)(3), filed 28 June 2011, which is being treated as a petition under 37 CFR 1.78(a)(3) seeking to add a claim for priority on the front page of the Letters Patent by way of a Certificate of Correction.

The petition is **DISMISSED** without prejudice.

A petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

Item (1) has not been satisfied.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a proper reference must be added to PCT/US03/12682. The amendment claims that PCT/US03/12682 is a continuation-in-part of application 10/382,334, but a proper claim under 35 USC 120 has not made in that international application.

MPEP 201.11, Section III. C. states in relevant part,

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides

> making reference to the intermediate application, also make reference to the first application. See Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F. 2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. (Emphasis added.)

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.

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

MAILED
MAR 23 2012
PCT LEGAL ADMINISTRATION

In re Patent No. 7,747,930
Issue Date: 29 June 2010
Application No. 10/547,820
International Filing Date: 05 March 2004
Attorney Docket No. 915-002.006

:DECISION ON PETITION
:UNDER 37 CFR 1.78(a)(3) AND
:REQUEST FOR CERTIFICATE
:OF CORRECTION
:

This is a decision on applicants' Renewed Petition Under 37 CFR 1.78(a)(3) seeking to add a claim for priority on the front page of the Letters Patent by way of a Certificate of Correction to prior-filed nonprovisional applications.

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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). A petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481, Rev. 8, July 2010.

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

The petition fee has been paid. A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Erin Thomson at (571) 272-3292.

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

5-24-2011

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

Patent No : 7858766 B2
Ser. No. : 10/547,878
Inventor(s) : Jacob Pitcovski, et. al.
Issued : December 28, 2010

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

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

John P. White
Cooper & Dunham
30 Rockefeller Plaza, 20th Floor
New, NY 10112

ej

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,858,766	:	
Issue Date: December 28, 2010	:	
Application No. 10/547,878	:	ON PETITION
Filed: September 2, 2005	:	
Attorney Docket No. 75042/JPW/JW	:	

This is a decision on the petition filed June 23, 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) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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)
7320672	2008-01-22	10/547,885	2005-09-02	058009-020100

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/charles berman/	Date (YYYY-MM-DD)	2012-03-01
Name	Charles Berman	Registration Number	29249

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
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In re Patent No. 7320672
Issue Date: January 22,2008
Application No. 10547885
Filed: September 2,2005
Attorney Docket No. 58009-020100/US

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

This is a decision on the electronic petition, filed March 1,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 1,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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.
10/547,976	07/10/2006	Fumitsugu Fukuyo	46884-5423 (215581)	7982

55694 7590 03/20/2012
DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209.

EXAMINER
HEINRICH, SAMUEL M

ART UNIT	PAPER NUMBER
3742	

NOTIFICATION DATE	DELIVERY MODE
03/20/2012	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):

DBRIPDocket@dbr.com
penelope.mongelluzzo@dbr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of:
FUKUYO, FUMITSUGU et al
Serial No.: 10/547,976
Filed: July 10, 2006
Docket: 46884-5423 (215581)
Title: LASER BEAM MACHINING METHOD

DECISION ON PETITION

This is a decision on the petition received on Sep. 9, 2011, seeking to suspend Office action on the above-identified application for a period of three months. This petition is being considered pursuant to 37 CFR § 1.103(c). The requisite petition fee has been paid.

The petition is dismissed as moot.

The record shows that an RCE under 37 CFR 1.114 was filed with the petition to suspend Office action on Sep. 9, 2011. The examiner did not act on the case for more than three months.

In light of the fact that more than six months have passed from the date of the filing the petition and no action was taken on this application, which is more than the time period what the petitioner had requested, this petition has been rendered moot. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571)-272-4856.

PETITION DISMISSED AS MOOT

Andrew Wang, Director
Technology Center 3700

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):	Patent Number (if applicable):
10/548,225	
First Named Inventor:	Title of Invention:
Tadahiro OHMI	VACUUM APPARATUS AND VACUUM PUMP

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 March 29, 2011
Name (Print/Typed) George C. Beck	Practitioner Registration Number 38,072

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

MAILED
APR 05 2011
OFFICE OF PETITIONS

In re Application of :
Tadahiro OHMI :
Application No. 10/548,225 : DECISION ON PETITION
Filed: October 20, 2005 :
Attorney Docket No.: 039262-0136 :

This is a decision on the request filed March 29, 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 November 10, 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 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 3746 for re-mailing the Office action of November 10, 2010. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Juha Ojanpera :
Application No. 10/548,235 :
Filed: September 2, 2005 :
Atty Docket No. 088245-1041 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b)" filed December 2, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand six hundred one (1601) days, not one thousand two hundred nine-three (1293) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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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).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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AUG 30 2010

OFFICE OF PETITIONS

HAHN & VOIGHT PLLC
1012 14TH STREET, NW
SUITE 620
WASHINGTON DC 20005

In re Patent No. 7,732,494
Issued: June 8, 2010
Application No. 10/548,407
Filed: September 8, 2005
Atty. Dkt. No.: TAN-354

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT UNDER
: 37 CFR 1.705(d)

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. §1.705(d)," filed August 7, 2010.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is DISMISSED.

The above-identified application matured into U.S. Patent No. 7,732,494 on June 8, 2010. The instant request for reconsideration was timely filed August 7, 2010 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 726 days.

Patentees argue that the application is entitled to an overall adjustment of 764 days based on an adjustment "A" delay of 595 days, an adjustment of "B" delay of 255 days less 105 days of applicant delay. Patentees contest the "A" adjustment of 576 days and assert that the correct adjustment in this regard is 595 days.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the 576 day adjustment contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed as untimely.

In view thereof, the adjustment of 576 days accorded under 37 CFR 1.702(a)(1) will not be reconsidered.

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 acknowledged of the required patent term adjustment application fee of $200.00.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 7293785
Issue Date: November 13,2007
Application No. 10548494
Filed: October 13,2005
Attorney Docket No. 007533-000002

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

This is a decision on the electronic petition, filed January 26,2012 ,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 January 26,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7293785	2007-11-13	10548494	2005-10-13	007533-000002

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 A. Shuster, #52672 /	Date (YYYY-MM-DD)	2012-01-26
Name	Elizabeth A. Shuster	Registration Number	52672

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

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

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

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

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

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

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

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

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

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

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

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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Hagai Karchi et al.	:	
Application No. 10/548,548	:	NOTICE
Filed: September 12, 2005	:	
Attorney Docket No. **30160**	:	

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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Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application	:	
Ichikawa, et al.	:	
Application No. 10/548,688	:	DECISION ON APPLICATION
Filed: September 12, 2006	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 187008/US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed July 8, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected to reflect additional days of Office delay, and fewer days of Applicant delay, for a total patent term adjustment of zero (0) 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 **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 12, 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 July 8, 2010, Applicants

timely[1] submitted the instant application for patent term adjustment. While applicants do not contest the final determination of zero (0) days, Applicants state that additional days of Office delay should have been accorded, together with fewer days of applicant delay.

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

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment of one hundred fourteen (114) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and twenty-three (23) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by ninety-one (91) and one hundred seventeen (117) days of applicant delay pursuant to 37 C.F.R. § 1.704(c)(8), and eighty-five (85) days pursuant to 37 C.F.R. § 1.704(b).

Applicant points out that the Office timely responded to Applicant's April 7, 2008 reply on June 19, 2008, but that thereafter the Office mailed a supplemental non-final Office action on October 2, 2008. As this supplemental Office action set a new shortened statutory period for reply, Applicant argues that the Office should have been accorded delay for not timely responding to their April 7, 2008 reply within four months. Applicants argument has been considered, and is found to be persuasive. Accordingly, the Office should have been assessed 56 days pursuant to 37 C.F.R. § 1.703(a)(2).

In addition, Applicants argue that they should not have been assessed one hundred seventeen (117) days of Applicant delay for filing a supplemental response under 37 C.F.R. § 1.704(c)(8). Applicants filed an Amendment on November 20, 2009. Thereafter, Applicants filed an IDS on December 17, 2009, and a Supplemental IDS on March 17, 2010. However, Applicants assert that the March 17, 2010 Supplemental Amendment was expressly requested by the examiner, and as such, they should have only been assessed delay under §1.704(c)(8) up until December 17, 2009. Applicants' argument has been considered, and after reviewing the file, is found to be persuasive. Accordingly, Applicants should have only been assessed delay of 27 days, not 117 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance

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[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

is **zero (0) days** (193 (114+56+23) days of PTO delay, reduced by 203 (91+85+27) days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: updated PAIR screen

Patent Term Adjustments

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

Application Number*: 10548688 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10548688

Application Filing Date	09/12/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	137
A Delays	137	PTO Manual Adjustment	146
B Delays	0	Applicant Delay (APPL)	293
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
80	11/15/2010		P020	Adjustment of PTA Calculation by PTO	99		0
79	11/15/2010		P028	Adjustment of PTA Calculation by PTO	56		0
70	04/12/2010	03/20/2010	MN/=.	Mail Notice of Allowance	23		52
69	03/29/2010		IREV	Issue Revision Completed			0
68	03/29/2010		N/=.	Notice of Allowance Data Verification Completed			0
67	03/29/2010		DOCK	Case Docketed to Examiner in GAU			0
66	03/29/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
65	03/29/2010		DVER	Document Verification			0
64	03/29/2010		CNTA	Notice of Allowability			0
57	03/24/2010		FWDX	Date Forwarded to Examiner			0
56	03/17/2010	11/20/2009	SA..	Supplemental Response		117	52
53	01/12/2010		FWDX	Date Forwarded to Examiner			0
63	12/17/2009		IDSC	Information Disclosure Statement considered			0
61	12/17/2009		IDSC	Information Disclosure Statement considered			0
54	12/17/2009		M844	Information Disclosure Statement (IDS) Filed			0
50	12/17/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
49	12/17/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
52	11/20/2009	08/27/2009	A...	Response after Non-Final Action		85	47
51	11/20/2009		XT/G	Request for Extension of Time - Granted			0
62	08/19/2009		IDSC	Information Disclosure Statement considered			0
55	08/19/2009		M844	Information Disclosure Statement (IDS) Filed			0
48	08/19/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
47	05/27/2009		MCTNF	Mail Non-Final Rejection			0
46	05/26/2009		CTNF	Non-Final Rejection			0
44	04/18/2009		FWDX	Date Forwarded to Examiner			0
43	04/15/2009		A.NE	Amendment after Final Rejection			0
39	03/09/2009		C.AD	Correspondence Address Change			0
37	02/17/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
45	02/13/2009		IDSC	Information Disclosure Statement considered			0
42	02/13/2009	11/14/2008	M844	Information Disclosure Statement (IDS) Filed		91	32
38	02/13/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
36	02/13/2009		CTFR	Final Rejection			0
41	12/16/2008		RCAP	Reference Capture on IDS			0
40	12/16/2008		M844	Information Disclosure Statement (IDS) Filed			0
35	12/16/2008		IDSC	Information Disclosure Statement considered			0
34	12/16/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
33	12/03/2008		FWDX	Date Forwarded to Examiner			0
32	11/14/2008		A...	Response after Non-Final Action			0
31	11/14/2008		XT/G	Request for Extension of Time - Granted			0
30	10/02/2008		MSRNF	Mail Supplemental Non-Final Action			0
29	09/29/2008		SRNF	Supplemental Non-Final Action			0
28	06/19/2008		MCTNF	Mail Non-Final Rejection			0
27	06/19/2008		CTNF	Non-Final Rejection			0
26	04/12/2008		FWDX	Date Forwarded to Examiner			0
25	04/07/2008		ELC	Response to Election / Restriction Filed			0
24	03/05/2008	11/12/2007	MCTRS	Mail Restriction Requirement	114		13
23	02/28/2008		CTRS	Requirement for Restriction / Election			0
22	01/29/2008		C.ADB	Correspondence Address Change			0
21	10/09/2007		DOCK	Case Docketed to Examiner in GAU			0
20	08/01/2007		DOCK	Case Docketed to Examiner in GAU			0
19	07/19/2007		PG-ISSUE	PG-Pub Issue Notification			0
18	07/11/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	05/02/2007		OIPE	Application Dispatched from OIPE			0
12	04/19/2007		PGPC	Sent to Classification Contractor			0
11	04/19/2007		M903	Notice of DO/EO Acceptance Mailed			0
6	04/09/2007		C.AD	Correspondence Address Change			0
5	01/19/2007		CRFE	CRF is Good Technically / Entered into Database			0
17	09/12/2006		A.PE	Preliminary Amendment			0
13	09/12/2006		371COMP	371 Completion Date			0
10	09/12/2006		ADDFLFEE	Additional Application Filing Fees			0
9	09/12/2006		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
8	09/12/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
7	09/12/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0

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DR. BANGER SHIA
PATENT OFFICE BANG SHIA
102 LINDENCREST CT
SUGAR LAND TX 77479-5201

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
CHOI	:	
Application No. 10/548,789	:	DECISION ON PETITION
Filed: September 12, 2005	:	
Docket No. 15880 B (SW-971170)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 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 6, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) and the required 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) 272-6735.

This application is being referred to Technology Center AU 3636 for appropriate action by the Examiner in the normal course of business.

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

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Dr. BANGER SHIA
Patent Office of Bang Shia
102 Lindencrest Ct
Sugar Land TX 77479-5201

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of :
Choi :
Application No. 10/548,801 : ON PETITION
Filed: September 12, 2005 :
Attorney Docket No. **SW-971174**

This is a decision on the petition under 37 CFR 1.137(b), filed, November 25, 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)."

The above-cited application became abandoned on December 25, 2007, for failure to respond to the non-final Office action mailed September 24, 2007, which set a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed April 1, 2008. The Notice of Abandonment states, "[a]s per telephone interview on 4/10/2008, Mr. Baxley confirmed that application did not file a reply to the last Office action." It is noted that Mr. Baxley was the prior attorney of record to whom power of attorney has since been revoked.

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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional 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 require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; **and** (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).
>
> Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office may consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,
>
> (A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or
>
> (B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under 37 CFR 1.137 was (A) "unavoidable" in a petition under 37 CFR 1.137(a); or (B) "unintentional" in a petition under 37 CFR 1.137(b).

By notification of the attorney of record on April 10, 2008, petitioner is deemed to have had constructive knowledge of the abandonment of the application. Yet, the instant petition was not filed until November 2010, more than two years after petitioner was made aware the application was abandoned. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

No additional petition fee is required.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Dr. BANGER SHIA
Patent Office of Bang Shia
102 Lindencrest Ct
Sugar Land TX 77479-5201

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of :
Choi :
Application No. 10/548,801 : ON PETITION
Filed: September 12, 2005 :
Attorney Docket No. **SW-971174**

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned on December 25, 2007, for failure to respond to the non-final Office action mailed September 24, 2007, which set a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed April 1, 2008.

The amendment filed November 25, 2010, is noted.

The application is being forwarded to Technology Center 3600, GAU 3636 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

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P. O. BOX 5940
DILLON, CO 80435-5940

MAILED
MAR 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Roland PULFER	:	
Application No. 10/548,821	:	DECISION GRANTING PETITION
Filed: July 4, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **FREI.P-058-P2111US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 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 January 25, 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 2123 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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Patent No. 7598687	:	DECISION ON REQUEST
Buerk et al.	:	FOR
Issue Date: 10/06/2009	:	RECONSIDERATION OF
Application No. 10/548908	:	PATENT TERM ADJUSTMENT
Filed: 03/09/2006	:	
Atty Docket No.	:	
10191/4242	:	

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 three hundred forty-one (341) 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 zero (0) days.

As to the "B" delay, the period is the period beginning on September 14, 2008, the day after the date that is three years after the date on which the application commenced the national stage under 35 U.S.C. 371(b), and ending on October 6, 2009, the date the application issued as a patent, or 388 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 September 24, 2007, a notice of appeal was filed. On September 18, 2008, 361 days after the date the notice of appeal was filed, a non-final Office action was mailed. Accordingly, the excluded period for appeal is 361 days, and the "B" delay period is 27 (388 – 361) days.

Accordingly, no change will be made to the patent term adjustment of 0 (53 days Office delay + 27 days three years delay – 95 days of applicant delay) days indicated in the Decision on Request for Recalculation of Patent Term Adjustment in View of *Wyeth* and Notice of Intent to Issue Certificate of Correction, mailed on April 21, 2010.

No fee is due for the subject request for reconsideration of the Decision on Request for Recalculation. The $200.00 fee will be refunded to counsel's credit card.

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

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

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Ishidoshiro	:	
Application No. 10/548,995	:	NOTICE
Filed: September 9, 2005	:	
Attorney Docket No. MES1P092	:	

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

2 2 SEP 2010

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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION,
P. O. BOX 1967
MIDLAND, MI 48641-1967

In re Application of	:	
Baikerikar et al.	:	
Application No.: 10/549,356	:	DECISION ON PETITION
PCT No.: PCT/US04/10330	:	
Int. Filing Date: 31 March 2004	:	UNDER 37 CFR 1.78(a)(6)
Priority Date: 02 April 2003	:	
Attorney Docket No.: 62657A	:	
For: Organosilicate Resin Formulation	:	
For Use In Microelectronic Devices	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed 26 February 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The petition was accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

This nonprovisional application is the national stage of PCT/US2004/010330, which was filed on 31 March 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/459,730, which was filed on 02 April 2003. This application was pending at the time of filing of this petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed with the above-identified national stage entry.

The current procedure 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 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).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

It is noted that the amendment filed on 26 February 2010 is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Any questions concerning this decision on petition may be directed to George Dombroske at (571) 272-3283. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1715 for appropriate action on the amendment filed 26 February 2010, including consideration of the claim under 35

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[1] *Note* MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed application.

/George Dombroske/.
George Dombroske
PCT Legal 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
www.uspto.gov

Decision Date : October 24,2011

In re Application of :

Hidekazu Suzuki

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10549423

Filed : 15-Sep-2005

Attorney Docket No : MAT-8749US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 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 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 2436 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	10549423
Filing Date	15-Sep-2005
First Named Inventor	Hidekazu Suzuki
Art Unit	2436
Examiner Name	MICHAEL MCNALLY
Attorney Docket Number	MAT-8749US
Title	REVOCATION INFORMATION TRANSMISSION METHOD, RECEPTION METHOD, AND DEVICE THEREOF

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	/Lawrence E. Ashery/
Name	Lawrence E. Ashery
Registration Number	34515

UNITED STATES PATENT AND TRADEMARK OFFICE

24 SEP 2010

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

PARFOMAK, ANDREW N.
NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

In re Application of:	:	
MCGEE, Thomas, et al.	:	
U.S. Application No.: 10/549564	:	DECISION
PCT No.: PCT/CH2004/000102	:	(37 CFR 1.181)
International Filing Date: 26 February 2004	:	
Priority Date: 21 March 2003	:	
Attorney Docket No.: 102790-147 (30085US)	:	
For: VAPOR DIFFUSING DEVICE	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 31 August 2010, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date for the present application. No petition fee is required.

BACKGROUND

On 26 February 2004, applicants filed international application PCT/CH2004/000102. The international application claimed a priority date of 21 March 2003, and it designated the United States. On 30 September 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 21 September 2005.

On 20 September 2005, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an unexecuted declaration.

On 22 November 2005, applicants filed an executed declaration and the authorization to charge Deposit Account No. 14-1263 the $130 surcharge for filing the declaration later than thirty months after the priority date.

On 05 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

On 26 June 2006, applicants filed a response to the Notification Of Missing Requirements stating that an executed declaration had been filed on 22 November 2005. A copy of the previously-filed declaration was included with this submission.

On 05 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as 26 June 2006. Also on 05 September 2006, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 26 June 2006.

On 29 September 2006, applicants filed a "Request For Corrected Filing Receipt" requesting correction of the 35 U.S.C. 371(c) date listed on the filing receipt from 26 June 2006 to 22 November 2005. The submission also requested correction of the residence of the first named inventor.

On 05 August 2010, a "Notification Of Allowance And Fee(s) Due" (Form PTOL-85) was issued.

On 20 August 2010, applicants filed a "Second Request For Corrected Filing Receipt" again requesting correction of the 35 U.S.C. 371(c) date and the residence of the first named inventor.

On 20 August 2010, a corrected filing receipt was issued in which the residence of the first named inventor was corrected, as requested. However, the 35 U.S.C. 371(c) date on the corrected filing receipt remained 26 June 2006.

On 21 August 2010, applicants filed the "Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.181. The petition asserts that the declaration completing the requirements of 35 U.S.C. 371(c) was filed on 22 November 2005 and it requests that the 35 U.S.C. 371(c) date for the present application be corrected accordingly.

DISCUSSION

A review of the application file confirms that the declaration completing the requirements of 35 U.S.C. 371(c)(4) was filed on 22 November 2005. The correct "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date Of Completion Of All U.S.C. 371 Requirements" for the present application is therefore 22 November 2005, as asserted by applicants in the present petition.

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 05 September 2006, which incorrectly identified the 35 U.S.C. 371(c) dates as (and the receipt date of the declaration) as 26 June 2006, is appropriately vacated. In addition, the filing receipts mailed herein, both of which incorrectly identified the 35 U.S.C. 371(c) date as 26 June 2006, are also appropriately vacated. A corrected Notification Of Acceptance and filing receipt will be issued properly identifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 22 November 2005.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 05 September 2006, and the filing receipts subsequently mailed herein, are hereby **VACATED.**

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for processing in accord with this decision, including the issuance of (1) a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements," the "Date Of Completion Of All U.S.C. 371 Requirements," and the filing date of the declaration as **22 November 2005**; and (2) a corrected filing receipt identifying the 35 U.S.C. 371(c) date as **22 November 2005**.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/20/2011

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/549569 Patent No.: 7746955 B2

CofC mailroom date: 1/12/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: The COCIN document, dated 01/12/2011 has been reviewed. See box checked above. Qutub Ghulamali/Examiner AU-2611. 8/23/11

Shirley Tin
SPE

2611
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of :
Li, et al. :
Application No. 10/549,594 : ON PETITION
Filed: September 19, 2005 :
Attorney Docket No. P59008 :

This is a decision on the petition filed March 7, 2011, requesting that the order of the joint inventors be changed.

The petition is **dismissed**.

The instant petition required a payment of a fee of $400.00. The petition fee did not accompany the instant petition. The renewed petition must be accompanied by the petition fee of $400.00 or an authorization to charge a deposit account for the same.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Any inquiries related to 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
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ROBERT E. BUSHNELL & LAW FIRM
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SUITE 600
WASHINGTON DC 20006-1004

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Li, et al.	:	
Application No. 10/549,594	:	ON PETITION
Filed: September 19, 2005	:	
Attorney Docket No. P59008	:	

This is a decision on the petition under 37 CFR 1.182 filed May 10, 2011, to change the order of the inventors cited on this application in USPTO records.

The petition is **granted.**

The order of the inventors is now as follows:

1. Zuohu Li
2. Yi Zhang
3. Tao Qi
4. Huiquan Li
5. Hongbin Xu
6. Zhikuan Wang

A corrected filing receipt is enclosed.

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

Enclosure: Corrected Filing Receipt

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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/549,594	09/19/2005	1734	450	P59008	9	1

CONFIRMATION NO. 7722

CORRECTED FILING RECEIPT

OC000000047616340

8439
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

Date Mailed: 05/12/2011

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)

Zuohu Li, Beijing, CHINA;
Yi Zhang, Beijing, CHINA;
Shili Zheng, Beijing, CHINA;
Tao Qi, Beijing, CHINA;
Huiquan Li, Beijing, CHINA;
Hongbin Xu, Beijing, CHINA;
Zhikuan Wang, Beijing, CHINA;

Power of Attorney:

Joseph Seeber--27719
Robert Bushnell--27774
Michael Parker--34973
George Stevens--36938
Matthew Lestina--44437
Joseph Konieczny--47715
Young Kim--56213
Jong Park--60953
Yuefei Ma--L0398
Xin Li--L0557

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/CN03/00199 03/19/2003

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: 05/12/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/549,594**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

METHOD FOR PRODUCTION OF ALKALI METAL CHROMATES

Preliminary Class

423

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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2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

MAILED
JAN 26 2012
OFFICE OF PETITIONS

In re Patent No. 7,968,066 :
Issue Date: June 28, 2011 :
Application No. 10/549,594 : DECISION ON PETITION
Filed: September 19, 2005 :
Attorney Docket No. **P59008** :

This is a decision on the petition under 37 CFR 1.182, filed January 10, 2012, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,968,066 on June 28, 2011. Petitioner requests duplicate Letters of Patent be issued.

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

The petition fee of $400.00 was received on January 11, 2012.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to the Office of Data Management.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Kimberly Terrell—Office of Data Management FAX: 571-270-9958

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

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Teunis Adrianus Kassenaar	:	
Application No. 10/549,647	:	DECISION ON REQUEST FOR REFUND
Filed: September 20, 2005	:	
Attorney Docket No. 22173-70410	:	

This is a decision on the Request For Refund filed July 19, 2010.

The request is **DISMISSED**.

A Petition for Revival of Application for Patent abandoned unintentionally under the provisions of 37 CFR 1.137(b) accompanied with the issue and publications were submitted on March 24, 2010. A decision granting the petition was mailed on June 15, 2010.

Applicant now files the above request for refund of the petition fee ($1,620.00) and asserts that counsel never received the Notice of Allowance mailed September 18, 2009, even though the Notice was mailed to the correct address. Applicant is encouraged to note MPEP 607.02 which states:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See Ex parte Grady, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment).
>
> When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is **not** a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).

37 CFR 1.26(a) also states:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent

> filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

Furthermore, MPEP 711.03 (c) states that:

> [T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

In view of the above, the request for refund is dismissed as the petition was not paid "by mistake". Further, applicant admitted the application was abandoned in filing the petition to revive, along with the fee. The time has passed for raising the issue that the holding of abandonment should be withdrawn. Applicant cannot now reasonably assert that the application was not abandoned at this late date, after applicant obtained the benefit of the petition under 37 CFR 1.137(b).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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MAILED
SEP 29 2011
OFFICE OF PETITIONS

SELDON & SCILLIERI
10940 WILSHIRE BLVD., 18TH FLOOR
LOS ANGELES, CA 90024-3952

In re Application of	:	
Lafayette Ron Hubbard et al	:	
Application No. 10/549,649	:	ON PETITION
Filed: March 15, 2007	:	
Attorney Docket No. ASI/1400(US)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 2011and supplemented on September 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 final Office action mailed December 9, 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 above-identified application became abandoned on March 10, 2011.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3736 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 15, 2011

TO SPE OF : ART UNIT 1787

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/549696 Patent No.: 8,012,596 B2

CofC mailroom date: 9-29-11

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

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: All changes approved. No new matter has been introduced nor has the scope or meaning of the claims been changed.

Carrie Shosho — **SPE**

1787 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/11

TO SPE OF : ART UNIT 1648

7838019

SUBJECT : Request for Certificate of Correction for Appl. No.: 10550026 Patent No.: ~~7836019~~

CofC mailroom date: 02/23/11

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

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: _____

_____

/Zachariah Lucas/_____ _1648_____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/11

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 10550026 Patent No.: 7836019

CofC mailroom date: 02/23/11

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

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: _____

_____

/Zachariah Lucas/_____ _1648_____
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7838019 B2
APPLICATION NO. : 10/550,026
ISSUE DATE : 11/23/10
INVENTOR(S) : **Morein , et al.**

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

Title Page:

Section: Other Publications,
Line 31, please delete "Complexex'", and insert therefor --Complexes--.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

MAILED
DEC 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Young-Taek Sul	:	
Application No. 10/550,197	:	ON PETITION
Filed: September 21, 2005	:	
Attorney Docket No.: P57672	:	

This is a decision on the petition filed August 9, 2010 under 37 CFR 1.181, requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3700 (Technology Center Director), dated June 7, 2010, which refused to withdraw the requirement that figure 6 be labeled as "Prior Art".

The petition to overturn the decision of the Technology Center Director in regard to the requirement that figure 6 be labeled Prior Art is **Granted** to the extent indicated.

BACKGROUND

The papers filed relevant to the instant petition are as follows:

A final Office action mailed April 10, 2007 included an objection to the drawing figures indicating that figures 6-8 should be designated as Prior Art.

A petition was filed May 14, 2007 under 37 CFR 1.181 requesting that the drawing objection to claims 6-8 be removed. This petition was dismissed by the Technology Center Director in a decision mailed December 4, 2007.

A renewed petition under 37 CFR 1.181 was filed February 4, 2008. The renewed petition argued only the requirement that figure 6 be labeled Prior Art. This renewed petition was denied by the Technology Center Director in a decision mailed June 7, 2010.

The instant petition was filed August 9, 2010.

OPINION

Petitioner requests relief from the requirement that Figure 6 be labeled as prior art and also requests that the application be returned to the examiner to reprove any assertion that Figure 6 is prior art.

The MPEP provides that: (1) figures showing the prior art are usually unnecessary and should be canceled; and (2) figures showing the prior art may be retained if they are needed to understand applicant's invention and are designated by a legend such as "Prior Art." *See* MPEP 608.02(g). In this application, however, the applicant appears to be contending that Figure 6 is not prior art. Under these circumstances, it is not appropriate to insist that the applicant designate Figure 6 by a legend such as "Prior Art."

It is noted that there is some debate between the applicant and the technology center over the import of the statements in Korean priority application No. 10-2003-0018745 that Figure 6 is a conventional or prior art feature. A determination as to what constitutes prior art is related to patentability. See Aktiebolaget Karlstads Mekaniska Werkstad et al. v. USITC, 705 F.2d 1565, 217 USPQ 865 (Fed Cir 1983); In re Fout, 675 F.2d 297, 213 USPQ 532 (CCPA 1982); and In re Nomiya, 509 F.2d 566, 184 USPQ 607 (CCPA 1975); see also MPEP 2129. Patentability issues, when in question, are matters are for the Board of Appeals and Interferences and are not subject to review by petition. See MPEP 1201. Therefore, this decision should **not** be viewed as reaching the issue of whether Figure 6 in Korean priority application No. 10-2003-0018745 may be treated as a conventional or prior art feature by virtue of the statements contained in that application. This decision simply does **not** require the applicant to amend this application to state that Figure 6 is prior art.

DECISION

The petition is grant to the extent that the requirement that applicant amend this application to state that Figure 6 is prior art is withdrawn.

This application is being forwarded to Technology Center 3700.

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

Robert W. Bahr
Acting Associate Commissioner
for Patent Examining Policy

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BERENBAUM WEINSHIENK PC
370 17TH STREET
SUITE 4800
DENVER CO 80202

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Patent of Real-Lemos et al.	:	DECISION ON REQUEST
Patent No. 7,655,237	:	FOR RECONSIDERATION OF
Issue Date: February 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/550,265	:	AND NOTICE OF INTENT TO
Filing Date: September 21, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 14455.853	:	CORRECTION

This is a decision on the petition filed May 20, 2010, requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand one hundred forty-three (1143) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

On August 31, 2009, the Office issued a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) advising Patentees of a patent term adjustment to date of 218 days. The patent term adjustment determination of 218 days consisted of:

1. A 221-day increase in patent term adjustment under 37 C.F.R. § 1.703(a) ("A Delay"), and
2. A 3-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c) ("Applicant Delay").

If Patentees disagreed with the 218-day calculation, Patentees could have filed a petition under 37 C.F.R. § 1.705(b) no later than payment of the issue fee. Specifically, 37 C.F.R. § 1.705(b) states,

> Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, ... 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.

Patentees did not file a request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b).

The patent issued February 2, 2010. The patent set forth a patent term adjustment of 496 days.

The patent term adjustment determination of 496 days on the patent was the sum of 221 days of A Delay and 499 days of delay under 37 C.F.R. § 1.703(b) ("B Delay") reduced by 221 days of overlap between A Delay and B Delay and reduced by 3 days of Applicant Delay.

Patentees filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth* ("*Wyeth* Request") on February 2, 2010.

The Office issued a decision in response to the February 2, 2010 request on April 20, 2010. The decision stated a certificate of correction setting forth a patent term adjustment of 717 days would be issued unless a request for reconsideration of the decision was filed within the longer of longer of one month or 30 days from the issuance date of this decision.

The patent term adjustment determination of 717 days set forth in the April 20, 2010 decision was the sum of 221 days of A Delay and 499 days of B Delay reduced by 0 days of overlap between A Delay and B Delay and reduced by 3 days of Applicant Delay.

The instant petition was filed May 20, 2010. The petition does not assert the patent term adjustment on the prior decision was based on an improper determination of the number of days of overlap between A Delay and B Delay. Instead, the petition asserts the Office miscalculated the number of days of A Delay.

Patentees' appear to misunderstand the nature of the *Wyeth* Request filed February 2, 2010. A *Wyeth* Request only allows a party to challenge the number of days by which the Office reduced the patent term adjustment for overlap between A Delay and B Delay. In fact, the *Wyeth* Request form submitted by Patentees explicitly states, with emphasis added, "THE PATENTEE'S **SOLE** BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A)."

A party may not challenge the Office's determination of A Delay via a *Wyeth* Request or via a request for reconsideration of a decision in response to a *Wyeth* Request. Therefore, the petition is dismissed.

Patentees may wish to note Patentees would be unable to challenge the determination of A Delay in this case even if a timely request had been filed after issuance of the patent under 37 C.F.R. § 1.705(d). The A Delay in this case consists entirely of delay under 37 C.F.R. § 1.703(a)(1). Patentees could have challenged the Office's determination of the number of days of delay under 37 C.F.R. § 1.703(a)(1) by filing a request under 37 C.F.R. § 1.705(b). As stated in 37 C.F.R. § 1.705(d):

> 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.

In view of the prior discussion, a certificate of correction will be issued indicating the term of the above-identified patent is extended or adjusted by seven hundred seventeen (717) days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred seventeen (717)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,655,237 B2
APPLICATION NO.	:	10/550,265
DATED	:	February 2, 2010
INVENTOR(S)	:	José Fernandez-Real 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 496 days.

Delete the phrase "by 496 days" and insert -- by 717 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Ishidoshiro	:	
Application No. 10/550,300	:	NOTICE
Filed: September 20, 2005	:	
Attorney Docket No. MES1P093	:	

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 09 2011

OFFICE OF PETITIONS

MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
600 West Broadway, Suite 2600
SAN DIEGO CA 92101

In re Application of	:	
Darryl Rideout et al.	:	
Application No. 10/550,372	:	DECISION ON PETITION
Filed: September 18, 2006	:	
Attorney Docket No. 38355-1030	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 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 July 23, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2009 (response time given in the Notice mailed November 24, 2009). A Notice of Abandonment was mailed on July 2, 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 election and amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the election and 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 1628 for appropriate action by the Examiner in the normal course of business on the reply received January 5, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Marian D. Walker
Luce, Forward, Hamilton & Scripps, LLP
2050 Main Street, Suite 600
Irvine, CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 1, 2010

TO SPE OF : ART UNIT 3643 - SPE Peter M. Poon

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/550,378 Patent No.: 7,735,258 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Antonio Johnson

Should the change to add Item (60) Related U.S. Application Data be approved?
See COCIN dated 07-30-2010

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE__/Peter M. Poon/_ Art Unit

3643

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Patent No. 7,735,258	:	DECISION ON REQUEST
Vickery	:	FOR
Issue Date: June 15, 2010	:	RECONSIDERATION OF
Application No. 10/550,378	:	PATENT TERM ADJUSTMENT
Filed: September 21, 2005	:	and
Atty Docket No. VICE:005US/	:	NOTICE OF INTENT TO ISSUE
10801931	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed on July 30, 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 two hundred and twelve (212) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred and twelve (212) days is **GRANTED**.

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

Application no. 10/550,378 matured into U.S. patent no. 7,735,258 on June 15, 2010, with a patent term adjustment of 135 days.

The Office agrees with Patentee's assertion that examination delay totals 272 days, applicant delay totals 137 days, the period of "B-delay" totals 77 days, and there is no overlap.

It follows that the patent term adjustment is 212 (272 - 137 + 77 - 0) days.

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 **two hundred and twelve (212)** 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 : 7,735,258B2

DATED : **June 15, 2010** **DRAFT**

INVENTOR(S) : Vickery

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 135 days

Delete the phrase "by 135 days" and insert – by 212 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

PATENT ADMINISTRATOR
NEAL, GERBER, & EISENBERG
SUITE 1700
2 NORTH LASALLE STREET
CHICAGO IL 60602

MAILED
DEC 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Teichner et al.	:	
Application No. 10/550,404	:	DECISION ON PETITION
Filed: September 21, 2005	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(A)
018044.01US2	:	
Title: GUTTER SYSTEM	:	

This is a decision on the petition submitted on November 10, 2011, pursuant to 37 C.F.R. § 1.137(a).

This petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 9, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 10, 2011. A Notice of Abandonment was mailed on February 24, 2011.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §§ 1.33(a) and (b) set forth, *in toto*:

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(a) Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76 (b)(1) and 1.63 (c)(2)) as the correspondence address. **The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address**. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) **Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).**
(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 patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) **An assignee as provided for under § 3.71(b) of this chapter;** or
(4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

Emphases added.

37 C.F.R. § 3.71(b) set forth, *in toto*:

> Patents - assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
> (1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
> (2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

37 C.F.R. § 3.73(b) set forth, *in toto*:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by 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).
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

§ 1.17(l);

(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has included the petition, issue, and publication fees.

Requirements (1) and (2) of Rule 1.137(a) have been satisfied. The fourth requirement is not applicable, as a terminal disclaimer is not required.[3]

The third requirement of Rule 1.137(a) has not been met, as will now be pointed out.

With this petition, Petitioner has alleged that the Notice of Allowance and Issue Fee Due was not received, as it was sent to the wrong address. Petitioner argues that a Revocation of Power of Attorney and Change of Correspondence Address was filed with the Office on May 26, 2009, designating the correspondence address to be that which is associated with Customer Number 0277 (the Notice of Allowance and Issue Fee Due was sent to the address of record that was established on filing, which is associated with Customer Number 25,541).

A review of the record confirms that on May 26, 2009, a "REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS" (Power of Attorney) was received in the Office. This document was executed by C. Scott Rasmussen, and includes his title as "President, Quality Edge, Inc." As such, the Power of Attorney was submitted by the Assignee.

The Power of Attorney failed to comply with 37 C.F.R. §§ 1.33(b)(3), and (b)(4): **the right of this Assignee to take action was not established.**

In summary, **the Notice of Allowance and Issue Fee Due was mailed to the proper address, and if it was not received by Applicant, it was due to Applicant's filing error - had the Power of Attorney been accompanied by the required Rule 3.73(b) statement, the Power of Attorney would have been entered, the subsequent request to change the correspondence address could have been effectuated, and the Notice of Allowance and Issue Fee Due would have been mailed to the address that is associated**

3 See 37 C.F.R. § 1.137(d)(1).

with Customer Number 0277.[4] It follows that the record does not support a filing that the entire period of delay was unavoidable.

CONCLUSION

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

Any subsequent filing pertaining to the abandonment of this application should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Alternatively, Petitioner may also file a petition pursuant to 37 C.F.R. § 1.137(b).

In order to effectuate the Power of Attorney and Change of Correspondence Address, Petitioner may wish to submit a statement pursuant to 37 C.F.R. § 3.73(b). The relevant form may be downloaded here: http://www.uspto.gov/web/forms/sb0096.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8] All other inquiries

---

4 It is noted in passing that the address that is associated with Customer Number 0277 differs from the return address that was placed on the second page of this petition: more specifically, the zip codes differ and the address that is associated with Customer Number 0277 includes a Post Office box in the address.
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 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.

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: CARL S. CLARK
PRICE HENEVELD LLP
695 KENMOOR SE
GRAND RAPIDS, MI 49546

UNITED STATES 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.

PATENT ADMINISTRATOR
NEAL, GERBER, & EISENBERG
SUITE 1700
2 NORTH LASALLE STREET
CHICAGO IL 60602

MAILED

JAN 18 2012

OFFICE OF PETITIONS

In re Application of	:	
Teichner et al.	:	
Application No. 10/550,404	:	DECISION ON PETITION
Filed: September 21, 2005	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
018044.01US2	:	
Title: GUTTER SYSTEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 4, 2012, 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 submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 9, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 10, 2011. A Notice of Abandonment was mailed on February 24, 2011.

A petition pursuant to 37 C.F.R. § 1.137(a) was submitted on November 10, 2011 along with the petition, issue, and publication fees, and was dismissed via the mailing of a decision on December 2, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

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1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. As such, requirements one through three 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.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the address listed on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank

3 See Rule 1.137(d).

Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: CARL S. CLARK
PRICE HENEVELD LLP
695 KENMOOR SE
GRAND RAPIDS, MI 49546

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
AUG 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Paolo Gianola, et al.	:	
Application No. 10/550,455	:	DECISION GRANTING PETITION
Filed: September 26, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09952.0002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 9, 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 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW
April M. Wise
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/19/2011

TO SPE OF : ART UNIT 1715

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/550416 Patent No.: 7871672 B2

CofC mailroom date: 10/11/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

Comments: _____

SPE

1715
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/20/11

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/550,500 Patent No. 7,531,158

CofC mailroom date 5/16/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

/EDWARD M. JOHNSON/ AU 1736

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/29/11

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No 10/550,502.: 7563465

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.

X **Approved** — All changes apply.

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

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

Comments: _____

TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1655
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of
Christian HAMON, et *al.*
Application No. 10/550,558
Filed: August 21, 2006
Attorney Docket No. **020600-303**

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 March 14, 2011.

The request is **APPROVED**.

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

The request was signed by Teresa S. Rea on behalf of all attorneys of record. Teresa S. Rea has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 17, 2011 that requires a reply from the applicant.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG WEST S. WING
ENGLEWOOD CLIFFS, NJ 07632-3100

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Petrus Martinus Leonardus Beks, et al.	:	
Application No. 10/550,639	:	DECISION ON PETITION
Filed: July 10, 2006	:	
Attorney Docket No. F3332(C)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 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, April 20, 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 July 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the reply received November 1, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ADELI & TOLLEN, LLP
11940 SAN VINCENTE BLVD., SUITE 100
LOS ANGELES, CA 90049

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Luc SEYFRIED et al	:	
Application No. 10/550,702	:	ON PETITION
Filed: September 26, 2005	:	
Attorney Docket No. CABH.P0004	:	

This is a decision on the petition filed March 10, 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 allowed application by way of a Certificate of Correction. The processing fee under 1.17(i) and the Certificate of Correction fee required under 37 CFR 1.20(a) has been received.

The request is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,715	08/16/2006	Abelardo Silva	00956.8006.US02	3064

91106 7590 08/18/2011
Perkins Coie LLP
700 Thirteenth Street, NW
Suite 600
Washington, DC 20005-3960

EXAMINER
TELLER, ROY R

ART UNIT	PAPER NUMBER
1654	

NOTIFICATION DATE	DELIVERY MODE
08/18/2011	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):

patentprocurement@perkinscoie.com

AUG 1 8 2011

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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Paul M. Booth
Perkins Coie LLP
700 Thirteenth Street, NW
Suite 600
Washington DC 20005-3960

In re Application of	:
Silva et al	:Decision on Petition
Serial No.:10/550,715	:
Filed: 16 August 2006	:
Attorney Docket No.:0508-004-001A-000000	:

This letter is in response to the Petition filed on 25 March 2011 under 37 C.F.R. 1.181 to request entry of the papers filed 28 October 2010. This petition was only now brought to the deciding official's attention. The resulting inconvenience and delay is regretted.

The application, file history and petition have been considered carefully. Applicants request entry of the papers filed 28 October 2010. On 31 May 2011, applicants filed a Request for Continued Examination. This request will re-open prosecution and permit entry of the papers filed 28 October 2011, along with those filed on 25 March 2011 and 31 May 2011.

Accordingly, the petition under 37 CFR 1.181 is **DISMISSED**.

The application will be forwarded to the Examiner for consideration of the papers filed 28 October 2010, 25 March 2011 and 31 May 2011 and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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

Lucas & Mercanti LLP
475 Park Avenue South
New York NY 10016

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
Andreas Habermann et al. :
Application No. 10/550,793 : DECISION ON PETITION
Filed: May 31, 2006 :
Attorney Docket No. **HM-655** :

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**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 2007

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, 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 3725 for appropriate action by the Examiner in the normal course of business.

/JoAnne Burke/

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
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EDWIN D. SCHINDLER
4 HIGH OAKS COURT
P.O. BOX 4259
HUNTINGTON NY 11743-0777

MAILED
JUL 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Milton Thompson	:	
Application No. 10/550,821	:	DECISION ON PETITION
Filed: August 11, 2006	:	
Attorney Docket No. 66221-0054	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 non-final Office action mailed, July 21, 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 October 22, 2009. The Notice of Abandonment was mailed February 2, 2010.

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

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWIN D. SCHINDLER
4 HIGH OAKS COURT
P.O. BOX 4259
HUNTINGTON NY 11743-0777

MAILED
NOV 10 2011
OFFICE OF PETITIONS

In re Application of Milton Thompson Application No. 10/550,821 Filed: August 11, 2006 Attorney Docket No. 66221-0054	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 31, 2011.

The request is **NOT APPROVED**.

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

The request was signed by Edwin D. Schindler on behalf of all attorneys of record associated with Customer Number 60333. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Currently, there is an outstanding Office action mailed September 26, 2011 that requires a reply.

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

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.
10/550,934	08/25/2006	Masayuki Tsuchiya	14875-151US1 C1-A0305P-US	1453

26161 7590 12/13/2011
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
12/13/2011	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

DEC 1 3 2011

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

In re Application of:
Tsuchiya, et al.
Serial No.: 10/550,934
Filed: August 25, 2006
Attorney Docket No.: **14875-151US1 C1-A0305P-US**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed December 1, 2011, to expunge information from the above identified application. This application is abandoned.

Petitioner received a Notice of Abandonment in this application on July 27, 2010. Petitioners ask that the proprietary material submitted to the Patent Office on July 23, 2007 and July 14, 2009, 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

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

APR 08 2011

OFFICE OF PETITIONS

CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLS MI 48326-1581

In re Application of	:	
KOHL, et al	:	
Application No. 10/550,989	:	DECISION ON PETITION
Filed: September 25, 2006	:	
Docket No. AP 10663	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 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, October 27, 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 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 3664 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 08 2011

OFFICE OF PETITIONS

CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLS MI 48326-1581

In re Application of	:	
KOHL, et al	:	
Application No. 10/550,989	:	DECISION ON PETITION
Filed: September 25, 2006	:	
Docket No. AP 10663	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 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, October 27, 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 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 3664 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No : 7, 918,758 B2
Ser. No. : 10/551,089
Inventor(s) : DI GIACOMO, et. al.
Issued : April 5, 2011

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

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

Joseph W. Berenato, III
Berenato & White, LLC
6550 rock Spring Drive
Bethesda, MD 20817

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERENATO & WHITE, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

MAILED
DEC 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,918,758	:	
Issue Date: April 5, 2011	:	
Application No. 10/551,089	:	ON PETITION
Filed: December 27, 2006	:	
Attorney Docket No. **4235.438**	:	
	:	

This is in response to the REQUEST TO CORRECT THE ASSIGNEE UNDER 37 CFR 3.81(b) filed December 13, 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**.

By decision mailed November 2, 2011, 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.

On December 13, 2011, petitioner submitted their request to the Office of Petitions for decision. A review of the record reveals that "Dayco Europe S.R.L., Munchen, Germany" was named as the assignee on the form PTOL-85B. Petitioner requests that the above-identified patent be corrected to change the residence data to "Chieti (IT)" for Dayco and to add a second assignee, "BAYERISCHE MOTOREN WERKE AKTIENGESELLSCHAFT, Muncih (DE)" and requests that a Certificate of Correction be issued correcting

[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).

the assignee residence data and identifying the second assignee. On October 21, 2011, 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 ""Dayco Europe S.R.L., Chieti, IT" and "BAYERISCHE MOTOREN WERKE AKTIENGESELLSCHAFT, Muncih (DE)" was submitted for recording in the Office (Reel/Frame 018680/0973) on December 27, 2006 before issuance of the patent on April 5, 2011. This was also prior to payment of the Issue Fee on February 28, 2011.

Receipt of 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.

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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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Application of :

BEREZUTSKIY, VLADIMIR MIKHAILOVICH :
Application No. 10/551,212 : DECISION ON PETITION
Filed: September 28, 2005 : TO WITHDRAW
Attorney Docket No. **7885-104/10811046** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 2011.

The request is **APPROVED**.

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

The request was signed by Thomas Paul on behalf of all attorneys of record who are associated with customer No. 00167. All attorneys/agents associated with the Customer Number 00167 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 an outstanding Office action mailed March 24, 2011 that requires a reply from the applicant.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **21ST CENTURY TECHNOLOGIES, LLC**
468 NORTH CAMDEN DRIVE
BEVERLY HILLS CA 90210

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/1/10

TO SPE OF : ART UNIT 3739 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/551,277 Patent No.: 7,722,604

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.

O.K. to enter in its entirety.

SPE /Linda C.M. Dvorak/ ART UNIT 3739

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of
Jacobus Bernardus Giesberg, et al.
Application No.: 10/551,309
Filed: September 28, 2005
Attorney Docket No.: 259358

ON PETITION

This is a decision on the petition, filed January 5, 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 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2891 for further processing of the request for continued examination 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Goro SHIRAISHI, et *al.*	:	
Application No. 10/551,403	:	DECISION DISMISSING PETITION
Filed: September 29, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S1459.70086US00**	:	

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

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until April 20, 2011. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

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

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

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

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

Docket No.: S1459.70086US00
(PATENT)

OPAP
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IAP20
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Goro Shiraishi et al.
Serial No.:	10/551,403
Confirmation No.:	4461
Filed:	September 29, 2005
For:	TEMPO ANALYSIS APPARATUS AND METHOD
Examiner:	A. R. Millikin
Art Unit:	2832

2011 APR 11 PM 4: 11
USPTO
DIVISION

VIA HAND DELIVERY – APRIL 7, 2011

Customer Service Window, Mail Stop 313(c)
U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

PETITION TO WITHDRAW APPLICATION FROM ISSUE PURSUANT TO 37 CFR 1.313(c)(2)

Dear Sir:

Petitioner hereby petitions the Commissioner to withdraw the above-identified application from issue. The Issue Fee in this application was timely paid on March 7, 2011.

Please charge our Deposit Account No. 23/2825 in the amount of $940.00 covering the fees set forth in 37 CFR 1.17(h) and 1.17(e).

Petitioner respectfully petitions that the above-identified application be withdrawn from issue in order to permit consideration of a submission under 37 CFR 1.114 (Request for Continued Examination with an Information Disclosure Statement) a copy of which is enclosed.

The Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 23/2825, under Docket No. S1459.70086US00.

Dated: April 7, 2011

Respectfully submitted,

By Randy J. Pritzker

Randy J. Pritzker
Registration No.: 35,986
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
617.646.8000

OPAP
APR 07 2011
IAP20
PATENT & TRADEMARK OFFICE

PTO/SB/17p (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FEE
Under 37 CFR 1.17(f), (g) & (h) TRANSMITTAL
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/551,403-Conf. #4461
Filing Date	September 29, 2005
First Named Inventor	Goro Shiraishi
Art Unit	2832
Examiner Name	A. R. Millikin
Attorney Docket Number	S1459.70086US00

Enclosed is a petition filed under 37 CFR 1.313 **that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of $** 130.00 **is enclosed.**
This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. *For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.*

Payment of Fees (small entity amounts are NOT available for the petition fees).

[x] The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 23/2825 :
[x] petition fee under 37 CFR 1.17(f), (g) or (h) [x] any deficiency of fees and credit of any overpayments

[ ] Check in the amount of $ _____ is enclosed.

[ ] Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee $400 Fee Code 1462
For petitions filed under:
§ 1.36(a) – for revocation of a power of attorney by fewer than all applicants
§ 1.53(e) – to accord a filing date.
§ 1.57(a) – to accord a filing date.
§ 1.182 – for decision on a question not specifically provided for.
§ 1.183 – to suspend the rules.
§ 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
§ 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee $200 Fee Code 1463
For petitions filed under:
§ 1.12 – for access to an assignment record.
§ 1.14 – for access to an application.
§ 1.47 – for filing by other than all the inventors or a person not the inventor.
§ 1.59 – for expungement of information.
§ 1.103(a) – to suspend action in an application.
§ 1.136(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available.
§ 1.295 – for review of refusal to publish a statutory invention registration.
§ 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
§ 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
§ 1.550(c) – for patent owner requests for extension of time in ex parte reexamination proceedings.
§ 1.956 – for patent owner requests for extension of time in inter partes reexamination proceedings.
§ 5.12 – for expedited handling of a foreign filing license.
§ 5.15 – for changing the scope of a license.
§ 5.25 – for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee $130 Fee Code 1464
For petitions filed under:
§ 1.19(g) – to request documents in a form other than that provided in this part.
§ 1.84 – for accepting color drawings or photographs.
§ 1.91 – for entry of a model or exhibit.
§ 1.102(d) – to make an application special.
§ 1.138(c) – to expressly abandon an application to avoid publication.
§ 1.313 – to withdraw an application from issue.
§ 1.314 – to defer issuance of a patent.

2011 APR 11 PM 4:11
USPTO
FEES ACCOUNTING
DIVISION

Randy J. Pritzker	April 7, 2011
Signature	Date
Randy J. Pritzker	35,986
Typed or printed name	Registration No., if applicable

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 04/20/11

2 Serial/Patent # 10/551,403

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition 1464	PETWDISS	04/11/11	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other 1801	RCEX	04/11/11	$ 810.00

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:
9	2 3 -- 2 8 2 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Petition received LATE (after application already issued)

11 REFUND REQUESTED BY:

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

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

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 4/21/11

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

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

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Shinobu Kato	:	
Application No. 10/551,439	:	DECISION GRANTING PETITION
Filed: September 29, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 278942US53PCT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 15, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 17, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2841 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

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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.*

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	10551439
Filing Date	29-Sep-2005
First Named Inventor	Shinobu Kato
Art Unit	2835
Examiner Name	ISHWARBHAI PATEL
Attorney Docket Number	278942US53PCT
Title	MULTILAYER PRINTED WIRING BOARD

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	/Edwin D. Garlepp/
Name	Edwin D. Garlepp
Registration Number	45330

UNITED STATES 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 : June 6,2011

In re Application of :

Shinobu Kato

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10551439

Filed : 29-Sep-2005

Attorney Docket No : 278942US53PCT

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 6,2011 , 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 2835 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
www.uspto.gov

Decision Date : September 23,2011

In re Application of :

Shinobu Kato

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10551439

Filed : 29-Sep-2005

Attorney Docket No : 278942US53PCT

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed September 23,201,1to 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 2835 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	10551439
Filing Date	29-Sep-2005
First Named Inventor	Shinobu Kato
Art Unit	2835
Examiner Name	ISHWARBHAI PATEL
Attorney Docket Number	278942US53PCT
Title	MULTILAYER PRINTED WIRING BOARD

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	/Edwin Garlepp/
Name	Edwin D Garlepp
Registration Number	45330

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Tsunoda, et al.	:	
Application No. 10/551,504	:	DECISION GRANTING PETITION
Filed: May 12, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14875-153US C1-A0320Y2P-U	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 9, 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 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1647 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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.*

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.
10/551,504	05/12/2006	Hiroyuki Tsunoda	14875-153US C1-A0320Y2P-U	8020

26161 7590 12/14/2010
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
SHAFER, SHULAMITH H

ART UNIT	PAPER NUMBER
1647	

NOTIFICATION DATE	DELIVERY MODE
12/14/2010	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):

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 1 4 2010

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P.O. Box 1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of:
Tsunoda et al.
Serial No.: 10/551,504
Filed: September 29, 2005
Attorney Docket No.: **14875-153US C1-A0320Y2P-U**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed September 1, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the proprietary material submitted to the Patent Office on June 23, 2007 and July 14, 2009 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

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.
10/551,504	05/12/2006	Hiroyuki Tsunoda	14875-153US C1-A0320Y2P-U	8020

26161 7590 06/08/2011
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
SHAFER, SHULAMITH H

ART UNIT	PAPER NUMBER
1647	

NOTIFICATION DATE	DELIVERY MODE
06/08/2011	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

JUN 0 8 2011

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

In re Application of Tsunoda et al. Serial No.: 10/551,504 Filed: May 12, 2006 Attorney Docket No.: **14875-153US C1-A0320Y2P-U**	: : : : :	PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 6, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the unpublished application 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

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

Date Mailed : 10/20/10

Patent No. : 7765461 B2
Patent Issued : 07/27/10
Docket No. : **MAT-8758US**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 09/28/10; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1814 or (703) 756-1574

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/30/10

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction for Appl. No.: 10551656 Patent No.: 7765461

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: This reference is properly listed as EP 04725793 on US Patent No. 7,765,461 (see page 2 of the patent, also attached– Foreign Patent Document EP 04725793). EP 04725793 was listed under "Foreign Patent Documents" NOT under "Non-Patent Literature Documents" on the IDS submitted on 12/8/2008 and considered on 5/20/2009 (see attachment), therefor EP 04725793 is listed under "Foreign Patent Documents" on the Patent. Additionally, each of the references listed

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

on the foreign search report were also listed on the IDS submitted on 12/8/2008 and have been considered.

2176

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/10

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction for Appl. No.: 10551656 Patent No.: 7765461

CofC mailroom date: 12/03/10

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.

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

Comments: Approve all changes

SPE

2176
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

CHRIS S. KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

MAR 22 2011

OFFICE OF PETITIONS

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re	: DECISION ON REQUEST FOR
Application No. 10/551,667	: RECONSIDERATION OF PATENT
Filed: July 18, 2006	: TERM ADJUSTMENT AND NOTICE
Patent No. 7,781,414	: OF INTENT TO ISSUE
Issued: August 24, 2010	: CERTIFICATE OF CORRECTION
Docket No. 104825-0017-101	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed September 30, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from three hundred seventy-eight (378) days to three hundred ninety (390) days.

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

On August 24, 2010, the instant application matured into U.S. Patent No. 7,781,414 with a patent term adjustment of three hundred seventy-eight (378) days. The Office determined a patent term adjustment of 378 days based on an adjustment for PTO delay of one (1) day pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), one hundred sixteen (116) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. 1.703(a)(6), and six hundred ninety (690) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.703(b), reduced by thirty-four (34), ninety-one (91), ninety-two (92) days of applicant delay pursuant to 37 C.F.R. § 1.704(b), and ninety-six (96) days pursuant to 37 C.F.R. 1.704(c)(8).

Patentees are incorrect 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. Since October 1, 2005 was a Saturday, commencement began on October 3, 2005, the next business day in accordance with PCT Rule 80.5. (Accordingly, the over three year period began on October 4, 2008 and

ended on August 24, 2010 (the patent issue date), and is 690 days. See 35 U.S.C. 154(b)(1)(B)(i). Therefore, the "B" delay period is 690 days.

In addition, Patentees point out that the Office incorrectly entered a PTA adjustment of 96 days for additional applicant delay with the mailing of an earlier decision on patent term adjustment on July 19, 2010. Patentees correctly point out that the adjustment should have been made for 86 additional days of applicant delay, not 96 days.

In view thereof, the correct number of days of patent term adjustment is 388 days (117 days of "A" delay and 690 days of "B" delay, reduced by 116 days of overlap and 303 days of Applicant delay).

The application is being forwarded to the Certificate 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 **three hundred eighty-eight (388)** days.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,781,414 B2

DATED : **August 24, 2010**

INVENTOR(S) : Lu 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 378 days.

Delete the phrase "by 378 days" and insert – by 388 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Patent No. 7,674,953
Issued: March 9, 2010
Application No. 10/551,699
Filed: November 21, 2005
Attorney Docket No. BJS-4982-4

: 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 May 3, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to twenty-eight (28) 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(b) should be 28 days and thus the patent term adjustment should be at least 28 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 170 days calculated from November 21, 2005, the 371 completion date. The delay pursuant to 37 CFR 1.702(b) is 25 days based on a national stage commencement date under 35 U.S.C. 371(f) of October 3, 2005, not September 30, 2005. October 1, 2005 was a Saturday, therefore commencement occurs on the next business day. Accordingly, the "B" delay period, the over three year period begins on October 3, 2008, the date the national stage commenced under 35 U.S.C. 371(f), and ends on October 28, 2008, the day before the RCE was filed. As such, the patent term adjustment of zero (0) days (170 "A delay days" plus 25 "B delay days" minus 269 "Applicant delay days"), as indicated in the patent, is properly reflected.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

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

Patricia Faison-Ball

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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JUL 19 2011

OFFICE OF PETITIONS

STEINFL & BRUNO
301 N LAKE AVE., STE 810
PASADENA CA 91101

In re Patent No. 7,850,694 :
Issue Date: December 14, 2010 :
Application No. 10/551,721 : NOTICE
Filed: October 3, 2005 :
Attorney Docket No. P268-US

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JAN 21 2011
OFFICE OF PETITIONS

Continental Teves, Inc.
One Continental Drive
Auburn Hills, Michigan 48326-1581

In re Application of	:	
Turhan BüYüKBAS	:	DECISION GRANTING PETITION
Application No. 10/551,725	:	UNDER 37 CFR 1.137(b)
Filed: 2 August 2006	:	
Atty. Docket No.: TM006	:	

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

The petition is **GRANTED**.

The Application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 19 February 2009 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 20 May 2009, with notification mailed 14 October 2009.

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 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 outstanding Office action, (2) a petition fee of $1620.00, and (3) a Statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant Petition was given a power of attorney or authorization of agent to prosecute the Application. Further, it is not apparent whether the signer of the Petition was in a position to have firsthand 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 the delay. *See,* 37 CFR 10.18(b) and Changes to Patent Practice and

Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (10 October 1997), 1203 Off. Gaz. Pat. Office 63, 103 (21 October 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.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

The application file will be referred to Technology Center AU 2841 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

2 7 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Graham E Taylor
The Dow Chemical Company
Intellectual Property
PO Box 1967
Midland MI 48641-1967

In re Application of	:	
PYZIK, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/551,727	:	
PCT No.: PCT/US2004/010837	:	UNDER 37 CFR 1.78(a)(3)
Int. Filing Date: 08 April 2004	:	
Priority Date: 09 April 2003	:	AND 37 CFR 1.78(a)(6)
Atty Docket No.: 62620A	:	
For: COMPOSITION FOR MAKING METAL	:	
MATRIX COMPOSITES	:	

This is a decision on the petition filed 12 March 2010 under 37 CFR 1.78(a)(3) and (a)(6).

The petition under 37 CFR 1.78(a)(3) is **DISMISSED as moot** as follows.

The instant petition seeks acceptance of a late claim for priority by way of an amendment to the specification, which reads: "This is a §371 application from PCT International Patent Application Number PCT International Patent Application Number PCT/US2004/010837 filed 08 April 2004, and claims benefit from U.S. Provisional Application Number 60/461,642, filed 09 April 2003, entire contents of both of which are hereby incorporated herein by reference."

As set forth in MPEP 1893.03(c), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, the petition under 37 CFR 1.78(a)(3) is **DISMISSED as moot**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(I) to the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition fails to comply with item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are 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.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FEB 15 2011

PCT LEGAL ADMINISTRATION

Graham E Taylor
The Dow Chemical Company
Intellectual Property
PO Box 1967
Midland MI 48641-1967

In re Application of	:	
PYZIK, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/551,727	:	
PCT No.: PCT/US2004/010837	:	UNDER 37 CFR 1.78(a)(6)
Int. Filing Date: 08 April 2004	:	
Priority Date: 09 April 2003	:	
Atty Docket No.: 62620A	:	
For: COMPOSITION FOR MAKING METAL MATRIX COMPOSITES	:	

This is a decision on the "Petition Under 37 C.F.R. § 1.78(a)" filed 14 September 2010 in the United States Patent and Trademark Office (USPTO). No additional petition fee is required.

The renewed petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(I) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in

that (1) a reference to the above-noted, prior-filed provisional application has been included in a concurrently filed amendment; (2) the surcharge fee required by 37 CFR 1.17(t) has previously been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider the benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294

The application is being forwarded to the Office of Patent Application Processing to continue national stage processing of the instant application.

/Boris Milef/

Boris Milef
Senior 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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MAILED

MAR 11 2011

OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

In re Application of	:	
Perry D. Lidster, et. al.	:	
Application No. 10/551,813	:	NOTICE
Filed: July 10, 2006	:	
Attorney Docket No. F324 0080/GSO	:	

This is a Notice regarding your "NOTIFICATION OF CHANGE OF ENTITY STATUS 37 CFR 1.27(g)" filed January 10, 2011, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Haixiang	:	
Application No. 10/551,847	:	DECISION ON PETITION
Filed: June 23, 2006	:	
Attorney Docket No. NBMP-001	:	

This is a decision on the petition filed April 9, 2010 requesting under 37 CFR 1.182 that the terminal disclaimers filed February 17, 2009 be withdrawn and replaced with the terminal disclaimers filed April 9, 2010. The $400.00 petition fee has been received.

The petition is **granted**.

The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioner's assertion.

This application is being referred to the Office of Data Management for processing in the normal course of business.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

MAILED
FEB 09 2011
OFFICE OF PETITIONS

In re Application of :
Martin Stephen :
Application No. 10/551,894 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 70240USPCT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Nonfinal Office action mailed March 26, 2010. A Notice of Abandonment was mailed on October 5, 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) (1).

The response/amendment filed October 13, 2010, is not signed. Therefore, the reply is not proper.

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 $1,110.00 extension of time fee submitted with the petition on October 13, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account, as it is the method in which the fee was paid

Petitioner is encouraged to note 37 CFR 1.4(c).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Martin Stephen Clough et al	:	
Application No. 10/551,894	:	DECISION ON PETITION
Filed: October 4, 2005	:	
Attorney Docket No. 70240USPCT	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed March 26, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1619 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
N/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
WENDT, et al	:	
Application No. 10/552,060	:	DECISION ON PETITION
Filed: March 2, 2006	:	
Attorney Docket No. DE03 0102 US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 9, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 9, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 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 payment of the issue fee of $1510 and the publication fee of $300; (2) the petition fee of $1620; and (3) a statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ZACHARY T WOBENSMITH III
7746 101ST COURT
VERO BEACH FL 32967-2871

MAILED
JAN 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Kejha et al.	:	
Application No. 10/552,114	:	ON PETITION
Filed: October 4, 2005	:	
Attorney Docket No. 1420P	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 1795 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

MAILED

SEP 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,608,629	:	DECISION ON REQUEST
Blanco-Pillado et al.	:	FOR
Issue Date: October 27, 2009	:	RECONSIDERATION OF
Application No. 10/552,131	:	PATENT TERM ADJUSTMENT
Filed: October 11, 2005	:	and
Atty Docket No. X-14441	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 19, 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 four hundred and fifty-four (454) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred and twenty-two (222) days is **GRANTED to the extent indicated herein.**

Petitioner has indicated that this patent is not subject to a terminal disclaimer.[1]

The time taken up by the notice of appeal is excluded from the period of B-delay. A notice of appeal was filed on June 6, 2008, and a non-final Office action was subsequently mailed on January 22, 2009: this constitutes 231 days that are *excluded* (not 230 days).[2] The 231 days of the over three year period consumed by appellate review, beginning on October 18, 2008 and

[1] Petition, page 4.
[2] Id. at 3.

ending on October 27, 2009, is *not included*[3] in the B delay (which totals 374 days, not 151[4]). See 35 U.S.C. § 154(b)(1)(B)(ii). Thus, 231 (not 230)[5] days are excluded.

Additionally, the Office agrees with Patentee's argument that an additional period of reduction should be assessed. A defective appeal brief was filed on October 7, 2008, a notice of defective appeal brief was mailed on October 30, 2008, and an acceptable appeal brief was filed on November 5, 2008, which is 29 (not 35[6]) days after the filing of the defective appeal brief. As such, a reduction of 29 days should have been assessed, pursuant to 37 C.F.R. § 1.704(c)(7).

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

As such, the patent term adjustment is increased by 222 (196 examination delay plus 374 B delay *minus* 231 days of exclusion minus 4 overlap minus 113 applicant delay) days.

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

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 **two hundred and twenty-two (222) days.**

---

[3] It is noted that on the third page of this petition, Patentee has *added* the period of exclusion to the B delay, instead of *subtracting* the former from the latter.
[4] Petition, page 3.
[5] Id.
[6] Id.

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 : 7,608,629 B2

DATED : **October 27, 2009** **DRAFT**

INVENTOR(S) : Blanco-Pillado 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 290 days

Delete the phrase "by 290 days" and insert – by 222 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Mohamadzadeh et al.	:	
Application No. 10/552,153	:	DECISION ON PETITION
Filed: May 16, 2008	:	
Attorney Docket No. D6486	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 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 October 19, 2010, 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 November 22, 2010. A Notice of Abandonment was mailed April 25, 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 response to the Restriction Requirement, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Further, 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) 272-7751.

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received.

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

MAILED
JAN 14 2011
OFFICE OF PETITIONS

In re Application of :
Nam et al. :
Application No. 10/552,291 : DECISION ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. 87075(307161) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed May 22, 2009. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 23, 2009. A Notice of Abandonment was mailed on September 17, 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 $755 issue and publication fees of $300, (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.

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). 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.

Pursuant to petitioner's request deposit account 04-1105 will be charged the $755 issue fee and the $300.00 publication fee.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Office of Data Management within **ONE MONTH** from the mail date of this decision.

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

This application is being referred to the Office of Data Management for further processing.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure PTOL-85

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent and Trademark Coordinator
14 Cambridge Center
Cambrdige, MA 02142

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Patent of James E. Dowling et al.	:	DECISION ON REQUEST
Patent No. 7,674,791	:	FOR RECONSIDERATION OF
Issue Date: March 9, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/552,305	:	AND NOTICE OF INTENT TO
371(c) Date: August 29, 2006	:	ISSUE CERTIFICATE OF
Atty. Docket No. B2047-7036US/A197 US002	:	CORRECTION

This is a decision on the petition filed May 7, 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 nine hundred sixty-seven (967) 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 nine hundred sixty-seven (967) 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 period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 450 days and is not in dispute.

The period of delay under 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay") is 0 days and is not in dispute.

The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is in dispute.

The petition states the date of commencement is October 7, 2005. However, the application was not filed with a request for early processing and the date of completion of all the requirements set forth in 35 U.S.C. §§ 371(c)(1), (c)(2), and (c)(4) was August 29, 2006. The correct date of commencement is October 11, 2005.[1] The number of days beginning October 12, 2008, the day after the date three years after the date of commencement, and ending on March 9, 2010, the date of issuance is 514 days. Therefore, the period of B Delay is 514 days, not 517 days as alleged in the petition.

The number of days of overlap between the period of A Delay and the period of B Delay is in dispute.

The petition asserts the period of A Delay does not overlap with the period of B Delay. However, the period of A Delay (October 30, 2007, to January 21, 2009)[2] does overlap with the period of B Delay (October 12, 2008, to March 9, 2010). Specifically, both periods of delay include the period beginning October 12, 2008, and ending January 21, 2009. The number of days beginning October 12, 2008, and ending January 21, 2009, is 102 days. Therefore, the period of overlap is 102 days.

In view of the prior discussion, the patent term adjustment is 862 days, which is the sum of 450 days of A Delay and 514 days of B Delay reduced by 102 days of overlap and 0 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 **eight hundred sixty-two (862)** 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

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[1] October 9, 2005, the date 30 months after the priority date, was a Sunday, and October 10, 2005, was a federal holiday.

[2] The period of A Delay began October 30, 2007, the day after the date 14 months after the date the application completed all the requirements set forth in 35 U.S.C. §§ 371(c)(1), (c)(2), and (c)(4), and ended on January 21, 2009, the date the Office mailed a restriction requirement.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,674,791 B2
APPLICATION NO.	:	10/552,305
DATED	:	March 9, 2010
INVENTOR(S)	:	James E. Dowling 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 642 days.

Delete the phrase "by 642 days" and insert -- by 862 days--

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KAUTH , POMEROY , PECK & BAILEY ,LLP
2875 MICHELLE DRIVE, SUITE 110
IRVINE, CA 92606

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Patent No. **7,588,071**	:	
Issue Date: September 15, 2009	:	
Application No. 10/552,496	:	NOTICE UNDER 37 CFR 1.28(c)
Filed: April 23, 2007	:	
Attorney Docket No. **L2:00544**	:	

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) 272-7253.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 4, 2010

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/552504 Patent No.: 7,442,812

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

Magdalene Talley

_____
Certificates of Correction Branch
(571)272-0XXX

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** /Janet L. Andres/ **Art Unit** 1625

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.
10/552,525	10/11/2005	Katsu Kondo	KPO-SUN-P4/SN-89/US	4420

44702 7590 10/04/2010
OSTRAGER CHONG FLAHERTY & BROITMAN PC
570 LEXINGTON AVENUE
FLOOR 17
NEW YORK, NY 10022-6894

EXAMINER
STULII, VERA

ART UNIT	PAPER NUMBER
1781	

NOTIFICATION DATE	DELIVERY MODE
10/04/2010	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):

jbroitman@ocfblaw.com
lmurrell@ocfblaw.com
dflaherty@ocfblaw.com

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wk

Mailed: OCT 04 2010

In re application of	:	
Kondo	:	DECISION ON
Serial No. 10/552,525	:	PETITION
Filed: October 11, 2005	:	
For: PROCESS FOR PRODUCING FOOD OR DRINK FROM MALT ROOT		

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on August 16, 2010 to withdraw the final status of the Office Action dated February 22, 2010. The Examiner issued an Advisory on August 8, 2010.

In response to the Final Office Action filed July 21, 2010, Applicants presented arguments that were directed to the English language abstract of the Todorova et al. reference, since only a translation of the abstract was provided to Applicants. The Examiner issued an Advisory Action mailed August 10, 2010 that made it clear the Examiner relied on the entire Todorova et al. reference, written in Bulgarian and not just the English language Abstract.

The Examiner indicated to Applicants that a full translation would be requested and that the final rejection would be withdrawn once the translation was received. Applicant was advised by the Examiner to file a Notice of Appeal or Request for Continued Examination (RCE) in order to keep the case pending.

When an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document. Citation of and reliance upon an abstract without citation of and reliance upon the underlying document is generally inappropriate where both the abstract and the underlying document are prior art. See Ex parte Jones, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished).

To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the Examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the Examiner is relying upon in support of the rejection. The record must also be clear as to whether the Examiner is relying upon the abstract or the full text document to support a rejection. The rationale for this is several-fold. It is not uncommon for a full text document to reveal that the document fully anticipates an invention that the abstract renders obvious at best. The converse may also be true, that the full text document will include teachings away from the invention that will preclude an obviousness rejection under 35 U.S.C. 103, when the abstract alone appears to support the rejection. An abstract can have a different effective publication date

than the full text document. Because all patentability determinations are fact dependent, obtaining and considering full text documents at the earliest practicable time in the examination process will yield the fullest available set of facts upon which to determine patentability, thereby improving quality and reducing pendency. When both the abstract and the underlying document qualify as prior art, the underlying document should normally be used to support a rejection.

DECISION

The petition for withdrawal of finality is **GRANTED.**

The Examiner is directed to issue an office action based on the full Todorova et al. reference and to provide Applicants with a full translation.

Sharon A. Gibson, Director
Technology Center 1700
Chemical and Materials Engineering

Manette Dennis
OSTRAGER CHONG FLAHERTY & BROITMAN PC
570 LEXINGTON AVENUE
FLOOR 17
NEW YORK NY 10022-6894

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 1, 2010

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10552547 Patent No.: 7649466

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch
703-756-1573

Thank You For Your Assistance

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

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

Comments: OK Enter

SPE AU2612

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999 PEACHTREE STREET
ATLANTA GA 30309-3915

MAILED
NOV 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Bellamkonda KISHORE et al.	:	
Application No. 10/552,568	:	DECISION ON PETITION
Filed: August 02, 2006	:	
Attorney Docket No. 21101.0040U2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 09, 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 November 08, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed August 08, 2011. Accordingly, the date of abandonment of this application is November 09, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $870.00 and the publication fee of $300.00, (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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KING OF PRUSSIA PA 19406-0939

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SEP 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,622,302	:	DECISION ON REQUEST
Barton et al.	:	FOR RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/552,571	:	and
Filed: October 11, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. PB60213	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the petition filed on January 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 four hundred ninety (490) 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 **four hundred sixty-eight (468)** days.

Patentee's calculation fails to take into account that a notice of appeal was filed on June 25, 2009. 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 is 22 days, beginning on February 22, 2008 and ending on August 22, 2008, the date of issuance of the patent. Thus, B delay is 387 (409 - 22) days. (The 105 days accorded at issuance was for B delay. The 105 days is being removed and corrected to 387 days). As such, the patent term adjustment is being increased to 468 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 **four hundred sixty-eight (468)** 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 : 7,622,302 B1

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Barton 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 186 days

Delete the phrase "by 186 days" and insert – by 468 days--

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PILLSBURY WINTHROP SHAW PITMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,575,040 :
Issue Date: August 18, 2009 :
Application No. 10/552,667 : NOTICE
Filed: October 4, 2005 :
Attorney Docket No. 069648-0388589 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on July 19, 2010.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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10001 RICHMOND AVENUE
KEVIN MCENANEY, IP DEPT
HOUSTON TX 77042-4299

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application:	:	
Howlid et al.	:	
Application No. 10/552,795	:	ON PETITION
Filed: July 13, 2006	:	
Attorney Docket No. 14.0228-PCT-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 11, 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 application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Ari O. Pramudji
Pramudji Law Group PLLC
1800 Bering Drive, Suite 540
Houston, Texas 77057

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

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Patent No. 7,687,506	:	DECISION ON REQUEST
Taunton, et al.	:	FOR
Issue Date: March 30, 2010	:	RECONSIDERATION OF
Application No. 10/552,847	:	PATENT TERM ADJUSTMENT
Filed: August 9, 2006	:	and
Atty Docket No.018062-006210US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 15, 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 sixty-five (865) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and sixty-one (561) days is **GRANTED to the extent indicated herein**.

Patentees dispute the reductions of 78 days and 1 day to the patent term adjustment pursuant to 37 CFR 1.704(c)(10) for the filing of amendments under 37 CFR 1.132 on January 11, 2010, and January 12, 2010. Patentees' argument has been considered, but is unpersuasive to the extent indicated below.

A review of the file history reveals that an amendment under 37 CFR 1.312 was filed on January 11, 2010, to which a response was mailed by the Office on February 2, 2010. The ensuing reduction to the patent term adjustment is 23 days. An amendment under 37 CFR 1.312 was also filed on January 12, 2010, to which a response was mailed by the Office on February 23, 2010. The ensuing reduction to the patent term adjustment is 43 days. It is noted that the period of reduction overlap each other by 21

days between the period of January 12, 2010, and February 2, 2010. Only the entry of non-overlapping periods of reduction is warranted. Accordingly, a period of reduction of 45 days is warranted. The period of reduction of 78 days and 1 day is being removed and the period of 45 days of reduction is being entered.

No consideration will be given to patentees' assertion that the period of adjustment under 37 CFR 1.703(a)(1) is 508 days. Further to this point, PALM records indicate that the issue fee payment was received in the Office on February 1, 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 1, 2010. Accordingly, relative to patentees' assertion 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 561 days (206 days of A delay + 535 days of B delay - 0 days of overlap - 180 days of applicant delay).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and sixty-one (561)** 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 : 7,687,506 B2

DATED : Mar. 30, 2010

INVENTOR(S) : Tauton 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 (527) days

Delete the phrase "by 527 days" and insert – by 561 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Villoo Morawala Patell	:	
Application No. 10/552,887	:	ON PETITION
Filed: October 12, 2005	:	
Attorney Docket No. 20049.1USWO	:	

This is a decision on the petition under 37 CFR 1.137(a), filed November 9, 2010 and supplemented May 2, 2010, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.312.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The petition under 37 CFR 1.183 is **DISMISSED** as being moot.

This application became abandoned for failure to comply with the Notice of Allowability mailed May 17, 2010 which set forth a period for reply of three (3) months.

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 to the specification and claims; (2) the petition fee of $270; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.312 is not required and is dismissed as moot.

The request for refund of the $555 extension of time fees is granted. The fees will be refunded to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 1638 for consideration of the amendment filed November 9, 2010.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : February 9, 2012

In re Application of :

Anton Van Der Heiden

Application No : 10552969

Filed : 13-Oct-2005

Attorney Docket No : 1458-003

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 February 9, 2012

The request is **APPROVED**

The request was signed by Robert J. Jondle (registration no. 33915) on behalf of all attorneys/agents associated with Customer Number 32905 . All attorneys/agents associated with Customer Number 32905 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 20872 .

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	10552969
Filing Date	13-Oct-2005
First Named Inventor	Anton Van Der Heiden
Art Unit	1638
Examiner Name	PHUONG BUI
Attorney Docket Number	1458-003
Title	Fruits of the Genus Capsicum

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32905

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 address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 20872

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Robert J. Jondle/
Name	Robert J. Jondle
Registration Number	33915

00684.102862 PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	:	Examiner: Hjerpe, Richard A.
HIDEKI YOSHINAGA, ET AL.	)	
	:	Group Art Unit: 2629
Application No.: 10/553,038	)	
	:	Confirmation No.: 6783
Filed: June 25, 2008	)	
	:	October 29, 2010
For: DISPLAY APPARATUS	)	

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

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102 AND PATENT APPLICATION BACKLOG REDUCTION STIMULUS PLAN

Sir:

Applicants respectfully request that the above-identified application ("this application") be accorded special status under 37 C.F.R. 1.102, in accordance with the **Project Exchange/Patent Application Backlog Reduction Stimulus Plan, Extension thereof, and Expansion and Extension thereof** (collectively hereinafter referred to as the "Backlog Reduction Plan"), as published in 74 Fed. Reg. 62285 (Nov. 27, 2009), 75 Fed. Reg. 5041 (Feb. 1, 2010), and 75 Fed. Reg. 36063 (June 24, 2010), respectively.

STATEMENT OF FACTS INVOLVED

(1) This application is a nonprovisional application that has an actual filing date earlier than October 1, 2009.

(2) US. Patent Application No. **12/503,036** ("the '036 application") is a co-pending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 C.F.R. 1.53.

(3) This application and the '036 application are owned by the same party (**Canon Kabushiki Kaisha**) as of October 1, 2009.

(4) The '036 application has not yet been taken up for examination.

(5) On October 29, 2010, a letter of express abandonment under 37 C.F.R. 1.138(a) was filed in the '036 application, accompanied by statements including:

a. a statement that Applicant of the '036 application (" '036 Applicant") has not and will not file an application that claims the benefit of the '036 application under any provision of title 35, United States Code;

b. a statement that '036 Applicant agrees not to request a refund of any fees paid in the '036 application; and

c. a statement that '036 Applicant has not and will not file a new application that claims the same invention claimed in the '036 application.

POINTS TO BE REVIEWED AND APPLICANTS' STATEMENTS

(1) The express abandonment of another co-pending application (*i.e.*, the '036 application) constitutes the basis under which special status is being sought in this application.

(2) Applicants have included herewith, a copy of the letter of express abandonment and the statements that accompany the letter of express abandonment, filed in the '036 application.

(3) This application and the '036 application are related by being commonly assigned to and owned by Canon Kabushiki Kaisha (Tokyo, Japan) as of October 1, 2009. Accordingly,

Applicants submit that this relationship qualifies this application for special status under 37 C.F.R. 1.102 and the Backlog Reduction Plan.

(4) The application that is being expressly abandoned is U.S. Patent Application No. 12/503,036.

(5) Applicants certify that they have not filed petitions in more than fourteen other applications requesting special status under the Backlog Reduction Plan.

(6) Applicants agree to make an election without traverse in a telephone interview if the Office determines that the claims of this application are directed to two or more independent and distinct inventions.

(7) The express abandonment of the '036 application has not formed the basis for any other petition under 37 C.F.R. 1.102.

(8) Accordingly, Applicants submit that this application, by this petition, the foregoing points and statements, and the documentation accompanied herewith, satisfies the requirements of the Backlog Reduction Plan.

ACTION REQUESTED

Applicants respectfully requests that this application be granted special status under 37 C.F.R. 1.102, thereby being advanced out of turn for examination.

CONCLUSION

Applicants believe that no fee is required to consider this petition, as the customary fee to consider a petition to make special for applications pertaining to the Backlog Reduction Plan has been waived. Nonetheless, the Director is hereby authorized to charge any deficiencies in fees, or credit any overpayments, to Deposit Account No. 06-1205.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Scott D. Malpede/

Scott D. Malpede
Attorney for Applicants
Registration No. 32,533

FITZPATRICK, CELLA, HARPER & SCINTO
1290 Avenue of the Americas
New York, NY 10104-3800
Facsimile: (212) 218-2200

SDM/SKY/rnm

03650.006518 PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	:	Examiner: Coles, Edward L.
CHARLES ARMSTRONG	)	
	:	Group Art Unit: 2625
Application No.: 12/503,036	)	
	:	Confirmation No.: 7324
Filed: July 14, 2009	)	
	:	October 29, 2010
For: PROVIDING CONFLICT INFORMATION FOR PRINT SETTINGS	) :	

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

STATEMENTS BY APPLICANT WHICH
ACCOMPANY LETTER OF EXPRESS ABANDONMENT

Sir:

Applicant is filing herewith a Letter of Express Abandonment under 37 C.F.R. 1.138(a) in the above-identified application ("this application").

Applicant also makes the following statements in this application, which shall form the basis for a petition under 37 C.F.R. 1.102 in another co-pending application (Application No. 10/553,038):

(1) Applicant has not and will not file an application that claims the benefit of this application under any provision of title 35, United States Code.

(2) Applicant agrees not to request a refund of any fees paid in this application.

(3) Applicant has not and will not file a new application that claims the same invention claimed in this application.

Applicant submits that the foregoing statements satisfy the requirements under the Project Exchange/Patent Application Backlog Reduction Stimulus Plan ("the Plan"). Accordingly, Applicant submits that this application properly serves as a basis for a petition under 37 C.F.R. 1.102 in another co-pending application in accordance with the Plan.

Applicant's undersigned attorney may be reached in our Washington, D.C. Office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Scott D. Malpede/

Scott D. Malpede
Attorney for Applicant
Registration No. 32,533

FITZPATRICK, CELLA, HARPER & SCINTO
1290 Avenue of the Americas
New York, New York 10104-3800
Facsimile: (212) 218-2200

SDM/SKY

FCHS_WS 5598078v1.doc

Doc Code: EABN

Document Description: Letter Express Abandonment of the application

PTO/SB/24 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

EXPRESS ABANDONMENT UNDER 37 CFR 1.138

File the petition electronically using EFS-Web
Or **Mail** the petition to:
Mail Stop Express Abandonment
Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	12/503,036
Filing Date	2009-07-14
First Named Inventor	Charles Armstrong
Art Unit	2625
Examiner Name	Coles, Edward L.
Attorney Docket Number	03650.006518.

Please **check only one** of boxes 1 or 2 below:
(If no box is checked, this paper will be treated as a request for express abandonment as if box 1 is checked.)

1. ☒ **Express Abandonment**
I request that the above-identified application be expressly abandoned as of the filing date of this paper.

2. ☐ **Express Abandonment in Favor of a Continuing Application**
I request that the above-identified application be expressly abandoned as of the filing date accorded the continuing application filed previously or herewith.

NOTE: A paper requesting express abandonment of an application is not effective unless and until an appropriate USPTO official recognizes and acts on the paper. See the Manual of Patent Examining Procedure (MPEP), section 711.01.

TO AVOID PUBLICATION, USE FORM PTO/SB/24A INSTEAD OF THIS FORM.

TO REQUEST A REFUND OF SEARCH FEE AND EXCESS CLAIMS FEE (IF ELIGIBLE), USE FORM PTO/SB/24B INSTEAD OF THIS FORM.

I am the:

☐ applicant.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record. Attorney or agent registration number is 32,533

☐ attorney or agent acting under 37 CFR 1.34, who is authorized under 37 CFR 1.138(b) because the application is expressly abandoned in favor of a continuing application (box 2 above must be checked). Attorney or agent registration number is _____.

/Scott D. Malpede/	2010-10-29
Signature	Date
Scott D. Malpede	202-531-1010
Typed or printed name	Telephone Number

Note: Signature of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process an application). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Express Abandonment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Application of	:	
YASHINAGA, et al.	:	DECISION ON PETITION
Application No. 10/553,038	:	TO MAKE SPECIAL
Filed: June 25, 2008	:	37 CFR 1.102
Attorney Docket No. **00684.102862.**	:	

This is a decision on the petition under 37 CFR 1.102, filed October 29, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009) and 75 Federal register Notice 36063 (June 24, 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 and 75 FR 36063 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) include a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application;

b) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the

expressly abandoned application under any provision of title 35, United States Code, and

c) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought that

a) includes a specific identification of the relationship between the applications that qualifies the application for special status;

b) identifies, by application number if available, the application that is being expressly abandoned;

c) provides a statement certifying that applicant has not filed petitions in more than fourteen (14) other applications requesting special status under this program; and

d) provides a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The instant petition complies with the conditions required under Patent Application Backlog Reduction Stimulus Plan. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Brian W. Brown at 571-272-5338.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Office of Patent Application Processing for further processing commensurate with this decision.

Brian W. Brown
Petitions Examiner
Office of Petitions

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,577,500	:	
Issued: August 18, 2009	:	
Application No. 10/553,043	:	ON PETITION
Filed: April 27, 2006	:	
Attorney Docket Number: ION 1.001APC	:	

This is a decision on the petition filed May 12, 2011 under 37 CFR 3.81(b)[1] to correct the assignee data on the Issue Fee Transmittal.

The petition is **GRANTED**.

Although the name of the second assignee was not included on the Issue Fee Transmittal, PTOL-85B, petitioner states that the assignees are **Yokohamma Rubber Co., Ltd., Tokyo (JP); and Fuji Electric Systems, Co., Ltd., Tokyo (JP)**.

In view thereof, and since Office assignment records reflect that **Fuji Electric Systems, Co., Ltd.,Tokyo (JP)** is also an assignee of record, the request complies with the provisions of 37 CFR 3.81(b) and it is therefore appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been 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

---

[1] *See* Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Davis Wright Tremaine LLP - San Francisco
505 Montgomery Street
Suite 800
San Francisco, CA 94111

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,687,465 :
Issue Date: March 30, 2010 :
Application No. 10/553,078 : ON PETITION
Filed: June 23, 2006 :
Patentee(s): Per Thor Straten, et. al. :

This is a decision on the renewed request under 37 CFR 3.81(b), filed July 14, 2010, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the request is now in compliance with the requirements of 37 CFR 3.81, 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 directing 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 (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/22/11

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/553,082 Patent No.: 7917113

CofC mailroom date: 06/15/11

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: _____

Rafael Perez-Gutierrez
Supervisory Patent Examiner
Technology Center 2600
Art Unit 2617

SPE

2617
Art Unit

PAGE 1/1 * RCVD AT 8/31/2011 7:43:44 AM [Eastern Daylight Time] * SVR:W-PTOFAX-001/7 * DNIS:2709754 * CSID:7033059508 * DURATION (mm-ss):00-54

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.
10/553,101	10/17/2005	Arne B. Wallin	5146-06-14 (WALLIN-06.PCT	2487

7590 03/06/2012

David J. French
418 Parker St.
Gatineau, Quebec, J9H 4P5
CANADA

EXAMINER
LAUX, JESSICA L

ART UNIT	PAPER NUMBER
3635	

MAIL DATE	DELIVERY MODE
03/06/2012	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
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MAR - 6 2012

David J. French
418 Parker St.
Gatineau, Quebec J9H 4P5 CA CANADA

In re Application of: Arne WALLIN	:	
Application Number: 10/553,101	:	DECISION PETITION
Filed: October 17, 2005	:	UNDER 37 CFR 1.181
For: MODOULAR WALL SYSTEM WITH FOOTING FORM	:	

This is a decision on applicant's petitions filed under 37 CFR 1.181 on November 28, 2011 and December 29, 2011 requesting the review of denial of entry of amendments filed October 7, 2011 and November 28, 2011.

The petitions are DISMISSED as moot.

A review of the application shows a non-final Office action mailed on November 10, 2008, followed by an amendment dated February 10, 2009, and a final rejection mailed May 29, 2009. A first RCE was filed on October 29, 2009 followed by a second non-final rejection dated February 1, 2010, applicant's responses dated June 1, 2010, and a final rejection dated August 16, 2010. Applicant filed an amendment after final on November 16, 2010 followed by an advisory action dated December 7, 2010.

A second RCE was filed on December 14, 2010. A non-final Office action was mailed on February 2, 2011. A final rejection was mailed on September 1, 2011 responsive to applicant's amendments filed on April 26, 2011 and June 2, 2011. Applicant filed an amendment after final on October 7, 2011. An advisory action was mailed on October 26, 2011 refusing entry of the amendment. Applicant filed a second amendment after final on November 17, 2011. Thereafter, applicant filed a third amendment after final on November 28, 2011 along with a petition requesting review of the examiner's refusal of entry of the October 7, 2011 amendment. Subsequently, the examiner mailed an advisory action on December 7, 2011 in which the examiner again refused entry of the November 17, 2011 amendment. In response, applicant filed a second petition on December 29, 2011 requesting review of the examiner's refusal of entry of the November 17, 2011 amendment.

A third RCE was filed on February 1, 2012 along with a copy of the same amendment on the claims as filed on November 17, 2011.

Applicant argued in both petitions that the amendment should be entered under 37 CFR 1.116 (b)(2) which states that "*An amendment presenting rejected claims in better form for consideration on appeal may be admitted;*". Applicant contends that the proposed amendments to the claims narrows the scope of the only independent claim pending, and is similar in principle to the limitations of claims 26 and 27 which the examiner has said would be allowable. Most importantly, applicant contends that the proposed amendment should be entered to place the claims in better form for appeal.

Rule 37 CFR 1.114 and MPEP 706.07 (h) states that "the Office will withdraw the finality of any Office action and the submission will be entered and considered." Therefore, the third RCE filed on February 1, 2012 withdraws the finality of the September 1, 2011 Office action, and the amendment filed concurrently with the RCE, which has been considered a proper submission under 37 CFR 1.114, will be entered.

Since the amendment that was filed with the third RCE in February 1, 2012 is a copy of the November 17, 2011 amendment, its entry essentially renders moot the issues raised in both petitions. The application has been forwarded to the examiner for action in a timely manner.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Eileen Lillis at (571) 272-6928.

Katherine Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

km/el: 2/14/12

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JENNIFER SICKLER
GARDERE WYNNE SEWELL LLP
1000 LOUISIANA, SUITE 3400
HOUSTON TX 77002

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Application of	:	
Xiaolian Gao et al.	:	
Application No. 10/553,328	:	DECISION ON PETITION
Filed: October 14, 2005	:	TO WITHDRAW
Attorney Docket No. **082191-0106**	:	FROM RECORD
(BRXL-0149)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 12, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer Number 40184 does not have power of attorney or was ever given power of attorney in the above-identified application. Therefore, the attorney cannot withdraw the Customer Number which was not originally granted by the Declaration and Power of Attorney filed October 14, 2005. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

It is also noted that the requested change in the correspondence address is improper, it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The 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).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

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 : 1/26/11

TO SPE OF : ART UNIT 2439

SUBJECT : Request for Certificate of Correction for Appl. No.: 10553412 Patent No.: 7823212

CofC mailroom date:
01/21/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Edan Orgad/ 2439

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

6/9/2011

Patent No. :7776432
Ser. No. :10/553444
Inventor(s) :Bo Serwin; Peter Buitelaar
Issued :8/17/2010
Title :SANDWHICH PLATE-LIKE CONSTRUCTION
Docket No. :

Re: Request for Certificate of Correction

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

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

In view of the foregoing, your request, in this 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(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: (703) 872-9306
ATTN: Office of Petitions

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

ROBERTS MIOTIKOWSKI SAFRAN & COLE P.C.
P.O. BOX 10064
McLEAN, VA 22102

HR

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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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN VA 22102-8064

MAILED
JUL 15 2011
OFFICE OF PETITIONS

Patent No. 7,776,432	:	
Issue Date: August 17, 2010	:	
Application No. 10/553,444	:	ON PETITION
Filed: October 31, 2006	:	
Attorney Docket No. 742111-168	:	

This is a decision on the petitions filed January 27, 2011 and June 21, 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

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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RATNERPRESTIA (JM)
P.O. BOX 980
VALLEY FORGE PA 19482-0980

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Pollington et al	:	
Application No. 10/553,490	:	DECISION GRANTING PETITION
Filed: October 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AA 1649 US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 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 December 27, 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 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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	10553507
Filing Date	10-Oct-2006
First Named Inventor	German Spangenberg
Art Unit	1652
Examiner Name	YONG PAK
Attorney Docket Number	FREE.P-006
Title	MANIPULATION OF ORGANIC ACID BIOSYNTHESIS AND SECRETION

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	/marina/
Name	Marina Larson
Registration Number	32038

UNITED STATES 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 13,2011

In re Application of :

German Spangenberg

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10553507

Filed : 10-Oct-2006

Attorney Docket No : FREE.P-006

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 13,2011 , 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 1652 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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26259
LICATA & TYRRELL, P.C.
66 E. Main Street
Marlton, NJ 08053

MAILED

JAN 11 2012

PCT LEGAL ADMINISTRATION

In re Application of :
FOOTE *et al* :
U.S. Application No.: 10/553,585 :
PCT No.: PCT/US2004/015341 :
Int. Filing Date: 17 May 2004 :
Priority Date: 29 May 2003 :
Attorney Docket No.: DC0261US.NP :
For: METHOD FOR DETECTING CARDIAC :
ISCHEMIA VIA CHANGES IN :
B-NATRIURETIC PEPTIDE LEVELS :

DECISION

This is a decision on the "Petition under 37 CFR § 1.78(a)(6)" filed 10 November 2011.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1. 78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The petition was accompanied by an Application Data Sheet (ADS) to include a reference to the prior-filed applications.

This nonprovisional application was filed on 15 January 2008, and was pending at the time of filing of this petition. While a reference to the prior-filed applications was not included in an ADS, or in the first sentence of the specification following the title, reference nevertheless was made in the unexecuted declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but 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)(2)(ii) and 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)(3) and 1.78(a)(6). *See* MPEP § 201.11(III)(D)

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 filing receipt. In view of the above, the $1,410.00 petition fee submitted is unnecessary and will be refunded in due course.

Any questions concerning this decision on petition may be directed to James Thomson at (571) 272-3302. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1641 for appropriate action on the ADS filed 10 November 2011, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

Bryan Lin

Bryan Lin
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
www.uspto.gov

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Mireia Hernandez Estaban	:	
Application No. 10/553,646	:	DECISION ON PETITION
Filed: December 19, 2005	:	
Attorney Docket No. 6647/011	:	

This is a decision on the petition, filed May 8, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Non final Office action mailed July 3, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 8, 2008.

Petitioner request that the abandonment be withdrawn since the Office action dated July 3, 2007, was sent to an incorrect correspondence address. Petitioner asserts that a proper power of attorney, including a change of correspondence address by means of declaration was filed on December 19, 2005.

A review of the written record does in fact indicate an irregularity in the mailing of the Office action dated July 3, 2007. In this regard, the Office received the declaration on December 19, 2005, which included a power of attorney and correspondence address which was prior to the mailing of the Non final Office action. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2854 to remail the Office action of July 3, 2007 and reset the period for reply.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Stamoulis & Weinblatt LLC
Two Fox Point Centre, 6 Denny Road, Suite 307
Wilmington DE 19809

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Eileen Chu Hing	:	
Application No. 10/553,715	:	DECISION ON PETITION
Filed: April 12, 2007	:	
Attorney Docket No. 05-219015	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 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, February 17, 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 May 18, 2010. The Notice of Abandonment was mailed September 1, 2010.

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

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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2439 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Eileen Chu Hing**
P.O. Box 8433
Rocky Mount, NC 27804

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

Randolph A Smith
Smith Patent Office
Suite 901
1901 Pennsylvania Ave N W
Washington, DC 20006-3433

Mail Date: 10/07/2010

Applicant	: Takuji Maeda	: DECISION ON REQUEST FOR
Patent Number	: 7654466	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/553,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAY 10 2011
OFFICE OF PETITIONS

The Dow Chemical Company
P.O. BOX 1967
2040 Dow Center
Midland MI 48641

In re Application of :
Lysenko, et al. :
Application No. 10/553,767 : ON PETITION
Filed: October 19, 2005 :
Attorney Docket No. **62260A**

This is a decision on the petition under 37 CFR 1.137(b) filed March 23, 2011.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed December 1, 2010, which set a statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 2, 2011. A Notice of Abandonment was mailed on March 18, 2011

The issue fee and publication fee were received on March 23, 2011.

The application file is being directed to the Office of Data Management for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Yoshida et al. :
Application No. 10/553,798 :
Filed: October 18, 2005 :
Attorney Docket No. 07580.0008 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is a decision responding to the "Application for Patent Term Adjustment-Pre-Grant" filed August 27, 2010. Applicants request the initial determination of patent term adjustment be corrected from four hundred seventy-seven (477) days to five hundred ninety-seven (597) days.

The application for patent term adjustment is **granted**.

The Office has updated the Office's PALM screen to reflect the correct patent term adjustment determination at the time of the mailing of the Notice of Allowance is 597 days. A copy of the updated PALM screen showing the correct determination is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on July 7, 2010, advising Applicants of a patent term adjustment to date of 477 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on August 27, 2010.

Applicants argue the correct patent term adjustment is 597 days, not 477 days, based on an assertion the Office should have entered a 562-day, not a 442-day, increase in patent term adjustment for Office delay in responding to a reply to a final Office action filed September 13, 2007.

Pursuant to 37 C.F.R. § 1.703(a)(3), the patent term adjustment includes:

> 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 in compliance with § 1.113(c) 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.

A reply to a final Office action was filed September 13, 2007. Office PALM records indicate the Office issued an Office action in response to the reply on March 30, 2009, four months and 442 days after the date the reply was filed. As a result, the Office entered a 442-day increase in patent term adjustment 37 C.F.R. § 1.703(a)(3).

Applicants contend the Office should have entered a 562-day, not a 442-day increase, in patent term adjustment under 37 C.F.R. § 1.703(a)(3) because an Office action was not actually mailed in response to the September 13, 2007 reply, until July 28, 2009, four months and 562 days after Applicants filed the reply.

A review of the record indicates the Office did not issue an Office action responding to the September 13, 2007 reply until July 28, 2009. Therefore, the Office should have entered a 562-day, not a 442-day, increase in patent term adjustment under 37 C.F.R. § 1.703(a)(3)

In view of the prior discussion, Office records have been changed to indicate the correct patent term adjustment as of the date the Office issued the Notice of Allowance is 597 days, which is the sum of 35 days of delay under 37 C.F.R. § 1.703(a)(1) and 562 days of delay under 37 C.F.R. § 1.703(a)(3).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded any Office delays pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 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 will 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 Steven Brantley at (571) 272-3203.

Charles Steven Brantley
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*: 10553798 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10553798

Application Filing Date	10/18/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	477
A Delays	477	PTO Manual Adjustment	120
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	597

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
67	12/15/2010		P028	Adjustment of PTA Calculation by PTO	120		0
58	06/04/2010		IREV	Issue Revision Completed			0
57	06/04/2010		DVER	Document Verification			0
56	06/04/2010		N/=.	Notice of Allowance Data Verification Completed			0
55	06/04/2010		DOCK	Case Docketed to Examiner in GAU			0
54	06/04/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
53	06/04/2010		EX.A	Examiner's Amendment Communication			0
52	06/04/2010		CNTA	Notice of Allowability			0
51	06/02/2010		FWDX	Date Forwarded to Examiner			0
50	06/02/2010		MAPCA	Mail Appeals conf. Rej. withdrawn			0
49	05/11/2010		APCA	Pre-Appeals Conference Decision - Rejection Withdrawn			0
46	04/08/2010		AP.C	Request for Pre-Appeal Conference Filed			0
45	04/08/2010		N/AP	Notice of Appeal Filed			0
44	01/15/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
43	01/14/2010		CTFR	Final Rejection			0
42	11/15/2009		FWDX	Date Forwarded to Examiner			0
41	10/28/2009		A...	Response after Non-Final Action			0
40	07/28/2009		MNRES	Mail Notice of Restarted Response Period			0
39	07/23/2009		NRES	Letter Restarting Period for Response (i.e. Letter re: References)			0
38	03/30/2009	01/13/2008	MCTNF	Mail Non-Final Rejection	442		26
35	12/12/2007		MAPCR	Mail Appeals conf. Reopen Prosec.			0
37	12/11/2007		CTNF	Non-Final Rejection			0
36	12/11/2007		FWDX	Date Forwarded to Examiner			0
34	12/11/2007		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
32	10/15/2007		AP.C	Request for Pre-Appeal Conference Filed			0
31	10/15/2007		N/AP	Notice of Appeal Filed			0
30	10/15/2007		XT/G	Request for Extension of Time - Granted			0
29	10/05/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
28	10/01/2007		CTAV	Advisory Action (PTOL-303)			0
27	09/19/2007		FWDX	Date Forwarded to Examiner			0
26	09/13/2007		A.NE	Amendment after Final Rejection			0
24	06/15/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
23	06/11/2007		CTFR	Final Rejection			0
22	04/24/2007		FWDX	Date Forwarded to Examiner			0
21	04/04/2007		A...	Response after Non-Final Action			0
20	01/22/2007	12/18/2006	MCTNF	Mail Non-Final Rejection	35		7
19	01/16/2007		CTNF	Non-Final Rejection			0
16	08/13/2006		DOCK	Case Docketed to Examiner in GAU			0
15	07/26/2006		DOCK	Case Docketed to Examiner in GAU			0
14	06/29/2006		DOCK	Case Docketed to Examiner in GAU			0
13	03/29/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
8	03/29/2006		DOCK	Case Docketed to Examiner in GAU			0
6	03/14/2006		OIPE	Application Dispatched from OIPE			0
5	03/14/2006		M903	Notice of DO/EO Acceptance Mailed			0
4	03/07/2006		L194	Cleared by OIPE CSR			0
3	02/26/2006		L194	Cleared by OIPE CSR			0
17	01/30/2006		IDSC	Information Disclosure Statement considered			0
11	01/30/2006		RCAP	Reference capture on IDS			0
10.7	01/30/2006		M844	Information Disclosure Statement (IDS) Filed			0
10	01/30/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
2	11/15/2005		CLSPCT	PCT Classification			0
18	10/18/2005		IDSC	Information Disclosure Statement considered			0
12	10/18/2005		RCAP	Reference capture on IDS			0
9.7	10/18/2005		M844	Information Disclosure Statement (IDS) Filed			0

9	10/18/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
7	10/18/2005	371COMP	371 Completion Date	0
1	10/18/2005	IEXX	Initial Exam Team nn	0

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

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Pethő et al.	:	
Application No. 10/553,908	:	ON PETITION
Filed: September 11, 2006	:	
Attorney Docket No. 1060-0159PUS1	:	

This is a decision on the petition under 37 CFR 1.182, filed, January 25, 2011, to change the name of inventor "János Petho" to -- János Pethő --.

The petition is **DISMISSED AS MOOT.**

A review of USPTO records reveals that the inventor's name was incorrectly spelled due to a typographical error.

The petition filed January 25, 2011 is unnecessary since petitioner has notified the Office of the typographical spelling error.

A Corrected Filing Receipt with the proper spelling of the inventor's last name is enclosed. No petition fee is required.

The issue fee in this case was paid on February 22, 2011. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

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

This matter is being directed to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
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
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/553,908	09/11/2006	1624	4382	1060-0159PUS1	24	16

CONFIRMATION NO. 8232

CORRECTED FILING RECEIPT

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000047365670

Date Mailed: 04/27/2011

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)

János Pethö, Budapest, HUNGARY;
Jozsef Barkoczy, Budapest, HUNGARY;
Peter Kotay Nagy, Vac, HUNGARY;
Gyula Simig, Budapest, HUNGARY;
Zsuzsa Szent-Kirallyi, Budapest, HUNGARY;

Power of Attorney: The patent practitioners associated with Customer Number 2292

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/HU04/00042 04/22/2004

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.)
HUNGARY P 0301082 04/22/2003

If Required, Foreign Filing License Granted: 09/28/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/553,908**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

NEW POLYMORPHS OF OLANZAPINE HYDROCHLORIDE

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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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

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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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OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Shi et al.	:	
Application No. 10/553,919	:	DECISION ON PETITION
Filed: October 20, 2005	:	
Attorney Docket No. NL 030488	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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, December 4, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 5, 2010. A Notice of Abandonment was mailed July 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 an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1784 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS, MI 49546

MAILED
FEB 17 2011
OFFICE OF PETITIONS

In re Application of
Patrick Leahy
Application No.: 10/553,929
Filed: August 29, 2006
Attorney Docket No.: KEL01 P-146

ON PETITION

This is a decision in response to the petition, filed December 14, 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 April 12, 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 June 13, 2010. This decision precedes the mailing of a Notice of Abandonment.

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 $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the response filed December 14, 2010.

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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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

MAILED
MAR 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Watkins et al.	:	
Application No. 10/553938	:	ON REQUEST FOR
Filing or 371(c) Date: 10/21/2005	:	RECONSIDERATION OF
Attorney Docket Number:	:	PATENT TERM ADJUSTMENT
X-16760A	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705(b))," filed January 30, 2012. Applicant petitions for reconsideration of the patent term adjustment to 107 days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon an assertion that the Office erred in calculating reductions of 181 days and 102 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating reductions of 181 days and 102 days is **DISMISSED**.

On October 28, 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 zero (0) days.

On January 30, 2012, 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 January 30, 2012, to an adjustment of 107 days. Applicants aver that the Office incorrectly charged Applicants with 283 days of delay.

Applicants assert that the Office erred in calculating reductions of 181 days and 102 days. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed October 28, 2011 indicates a patent term of zero (0) days. The instant request for reconsideration of patent term adjustment indicates that the Office may have erred in calculating reductions of 181 days and 102 days in connection with the submission of replacement drawings.

[1] PALM records show that the Issue Fee payment was received in the Office on January 30, 2012.

Office records

Office records reveal that this Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, on April 30, 2010, along with an Office communication informing Applicant that the sequences depicted in Figures 4, 5,8 and 9 did not constitute an appropriate description of the intact sequences. The Office communication required a sequence listing for the intact sequences.

Applicants filed a reply including Replacement and Annotated Drawings on June 1, 2010, requesting entry of the replacement drawings. In response, the Office mailed a Notice of Non-Compliant Amendment on October 28, 2010, requiring Annotated Sheets indicating the figure number for drawings in which the figure number had been changed.

Applicants filed a reply to the Notice of Non-Compliant Amendment on November 29, 2010, noting in the reply that

> [b]ecause the Amendment dated June 1, 2010 deleted previous Figures 4, 5, 8 and 9, annotated sheets for previous Figures 6, 7, and 10-17 (corresponding to Replacement Sheets 4, 5, and 6-13, which were previously submitted) are enclosed herein in order to bring the Amendment dated June 1, 2010 into compliance with 37 C.F.R. 1.21(d), particularly, 37 C.F.R. 1.21(d)(2). (Emphasis added).

In response to Applicants' reply filed November 29, 2010, this Office mailed a second Notice of Non-Compliant Amendment on February 17, 2011, informing Applicants that "t]he annotated sheet for Figure 11 (previously Figure 15) recites 'in house Rituxan' in the figure legend box wherein said change from original Figure 15 is not noted as required. In addition, said change is not also found in the corresponding replacement Figure 11 filed 6/1/10."

In reply to the second Notice of Non-Compliant Amendment, Applicants filed a reply on March 11, 2011, wherein Applicants stated that

> The Applicants would like to thank the Examiner for identifying this unintended change to their attention. To be clear, the change to "In house Rituxan" in the figure legend box of the annotated sheet for Figure 11 is not a required change from the original Figure 15. Rather, the substitution of the phrase "In house Rituxan" for the term "C2B8" was unintentional."

Applicant goes on to provide that "...the application now contains a complete set of correct annotated sheets for the previously requested amendments to the drawings." Response to Notice to Comply at p.2. (Emphasis added).

The present petition

Applicants file the present petition and aver that the inclusion of annotated sheets in Applicants' response of June 1, 2010 was entirely optional; therefore, the reply filed June 1, 2010 was fully

responsive to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, mailed April 30, 2010. In support of this assertion, Applicants note 37 CFR 1,121(d)(1), which states that a marked up copy of any amended drawing figure, including annotations indicating changes made, may be included, unless required by the examiner, in which case the marked up copy including annotations must be included as per 37 CFR 1.121(d)(1).

The MPEP 2732 provides:

> 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The reference to 37 CFR 1.135(c) is parenthetical because 37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq.

Regarding the reduction of 181 days, Applicants, sua sponte, filed annotated sheets, which were found by the Examiner to have been non-compliant. Applicant argues that because annotated sheets were not required by the Examiner, the reply, which included annotated sheets, was fully responsive and did not contain an omission. However, as Applicants note, 37 CFR 1.121(d)(1) states that "[a] marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be included." (Emphasis added). Annotated sheets, once submitted, must indicate the changes made. Here, the Annotated sheets failed to indicate the figure number for drawings in which the figure number had been changed. Moreover, Applicants acknowledged that their reply to the Notice brought the amendment into compliance with 37 CFR 1.[1]21(d), and in particular 1.[1]21(d)(2). Applicant does not aver that the annotated drawings were in compliance with 37 CFR 1.121, but that the annotated drawings were not required by the Examiner. In this instance, the annotated drawings failed to comply with 37 CFR 1.121(d)(1). The Office properly assessed a reduction of 181 days pursuant to 37 CFR 1.704(c)(7), beginning on the day after the date the reply having an omission was filed, June 2, 2010, and ending on the date that the reply or other paper correcting the omission was filed, November 29, 2010.

Regarding the reduction of 102 days, Applicants do not aver that the reply did not contain an omission, but only that the omission was "merely because one of the annotated sheets had a

minor and non-substantive inconsistency as compared to the corresponding amended drawing." Petition at p.5. However, as stated supra, 37 CFR 1.704(c)(7) applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected. Accordingly, the period of reduction of 102 days, beginning on the day after the date the reply having an omission was filed, November 30, 2010, and ending on the date that the reply or other paper correcting the omission was filed, March 11, 2011, is appropriate.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Olivier Buyse	:	
Application No. 10/553,942	:	DECISION ON PETITION
Filed: March 15, 2006	:	
Attorney Docket No. 33155.72	:	

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

The petition is GRANTED.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 17, 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 18, 2009. The Notice of Abandonment was mailed February 12, 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, 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 2617 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHNSON & ASSOCIATES
PO BOX 90698
AUSTIN TX 78709-0698

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of :
Edwin S. Olson et al. :
Application No. 10/554,018 : DECISION ON PETITION
Filed: January 23, 2007 :
Attorney Docket No. **EER.P0018** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2011, to revive the above-identified application.

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 Bruce A. Johnson 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, Bruce A. Johnson desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 27, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 28, 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) previously filed on November 1, 2010 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.

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

This application is being referred to Technology Center AU 1736 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-18-12

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/554075 Patent No.: 8002910

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: _____

_____

A Green

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 Roy Van Cing **Art Unit** 1733

A

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-18-12

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/554075 Patent No.: 8002910

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 Roy Van Cing **Art Unit** 1733

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

MAILED

SEP 21 2011

OFFICE OF PETITIONS

In re Application of :
Pascal Bolcato et al :
Application No. 10/554,143 :
Filed: February 1, 2007 :
Attorney Docket No. 10398-NI :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2011, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2123 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VLP LAW GROUP LLP
555 BRYANT STREET
SUITE 820
PALO ALTO CA 94301

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DEC 09 2011

OFFICE OF PETITIONS

In re Application of
Benjamin Oshlack et al. :
Application No. 10/554,157 : ON PETITION
Filed: September 13, 2006 :
Attorney Docket No: 901-001-029 :

This is a decision on the petition filed November 28, 2011, under 37 CFR 1.137(a), to revive the above identified application.

The petition is **DISMISSED**.

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

This application became abandoned August 24, 2011 for failure to file a timely response to the Final Office Action mailed May 23, 2011, which set a three month period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) 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;

(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Director 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 unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3) above.

With regard to item (1), petitioner has not provided the required reply. The RESPONSE TO FINAL OFFICE ACTION WITH AMENDMENT filed with the instant petition, indicates that "Submitted herewith is a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), a Request for Continued Examination and a Supplemental Information Disclosure Statement."

At the outset, petitioners are advised that form PTO/SB/61, that used for a petition under the unavoidable standard, has been filed indicating a petition fee in the amount of $1860, which is the large entity fee for a petition under the unintentional standard. However, petitioner has not stated a claim for which relief can be granted with the appropriate showings under the unavoidable standard of review.

SHOWING OF UNAVOIDABLE DELAY

With regard to item (3), 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.[1]

---

[1] 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."

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Additionally, even if the petition were to be treated under either 37 CFR 1.137(a) or 37 CFR 1.137(b), it would be dismissed because a proper response has not been filed. While the RESPONSE TO FINAL OFFICE ACTION WITH AMENDMENT indicates the filing of a Request for Continued Examination and a Supplemental Information Disclosure Statement, neither has been located amongst the papers filed November 28, 2011 and neither is the RCE filing included.

Therefore, in addition to the lack of the RCE and Supplemental IDS, since no fees were submitted and since no deposit account has been authorized, this petition has not provided a response to the Final Office Action.

The application will therefore remain in an abandoned status until such time as a grantable petition is filed.

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

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

By FAX: (571)273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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VLP LAW GROUP LLP
555 BRYANT STREET
SUITE 820
PALO ALTO CA 94301

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DEC 30 2011

OFFICE OF PETITIONS

In re Application of
Benjamin Oshlack et al.
Application No. 10/554,157
Filed: September 13, 2006
Attorney Docket No: 901-001-029

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2011 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 24, 2011 for failure to file a timely response to the Final Office Action mailed May 23, 2011, which set a three month period for reply. Prior to the mailing of the Notice of Abandonment, in a petition filed November 28, 2011, petitioner asserted unavoidable delay in responding to the Office Action. The petition was dismissed in a decision mailed December 9, 2011 because the evidence provided did not establish that the delay was "unavoidable".

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to Technology Center 1615 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

NOV 23 2010

PCT LEGAL ADMINISTRATION

In re Application of	:	
VERGNAULT et al	:	
Application No.: 10/554,258	:	DECISION ON PETITION
Filing Date: April 23, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 28069-618-NATL	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 14, 2010, to accept an unintentionally delayed claim for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present application is the national stage of international application number PCT/IB2004/001702. Because the present application 10/554,258 is merely a different stage of international application number PCT/IB2004/001702 and not a different application, a claim of benefit under 35 U.S.C. 120 to the international application would not be appropriate. Applicant is advised that there is no requirement that a national stage make reference to the international application upon which it is based in the first sentence of the specification or in an application data sheet. Applicant is further advised that a proper claim for foreign priority based on United Kingdom application number 0309343.2 was made in the international stage in accordance with 37 CFR 1.55(a)(1)(ii).

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.

BryanLin

Bryan Lin
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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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED
MAR 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Kameron W. Maxwell	:	
Application No. 10/554,299	:	ON PETITION
Filed: September 22, 2006	:	
Attorney Docket No. MITOS.004NP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a timely response to the final Office action mailed December 3, 2009. A Notice of Abandonment was mailed on October 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 continuing application; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is granted.

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. 12/793,606.

Telephone 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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United States Patent and Trademark Office
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SEP 09 2010
OFFICE OF PETITIONS

Shin-Jen SHIAO
4F-6, NO. 98 JIANZHONG ROAD
HSINCHU 30070 TW TAIWAN

In re Application of	:	
Shin-Jen Shiao	:	
Application No.: 10/554,315	:	DECISION ON PETITION
Filed: October 24, 2005	:	
Attorney Docket No.: JA-SHIAO-US-1	:	

This is a decision on the petition filed in the above-identified application.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $540. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

Further correspondence with respect to this matter should be 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]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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)

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHIN-JEN SHIAO
4F-6, NO. 98 JIANZHONG ROAD
HSINCHU 30070 TW TAIWAN

MAILED
NOV 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Shin-Jen Shiao	:	
Application No.: 10/554,315	:	ON PETITION
Filed: October 24, 2005	:	
Attorney Docket No.: None	:	

This is a decision in response to the communication, filed September 29, 2010, which is being treated as a renewed petition to revive the above-identified application under the unavoidable provisions of 37 CFR 1.137(a).

The petition is **DISMISSED.**

Any further petition to revive 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(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for a failure to reply to a Restriction Requirement mailed August 28, 2007. A Notice of Abandonment was mailed on September 29, 2007. On May 10, 2010 a petition under the provisions of 37 CFR 1.137(a) was filed; however, the petition was dismissed on September 9, 2010 since the requisite petition fee was not paid. On September 29, 2010, the present petition was filed along with the requisite $270 petition fee.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director 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(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

In this regard, the petition does not provide any evidence to support a conclusion that the entire delay in filing the required reply was unavoidable.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing 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 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).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the $810 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 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]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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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SHIN-JEN SHIAO
4F-6, NO. 98 JIANZHONG ROAD
HSINCHU 30070 TW TAIWAN

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Shin-Jen Shiao	:	
Application No.: 10/554,315	:	ON PETITION
Filed: October 24, 2005	:	
Attorney Docket No.: None	:	

This is a decision on the renewed petition under the unavoidable provisions of 37 CFR 1.137(a), filed December 17, 2010, to revive the above-identified application.

The petition is DISMISSED.

The application became abandoned for a failure to reply to a Restriction Requirement mailed August 28, 2007. A Notice of Abandonment was mailed on September 29, 2007. On May 10, 2010 and September 29, 2010 petitions under the provisions of 37 CFR 1.137(a) were filed; however, the petition were dismissed in decisions mailed September 9, 2010 and November 17, 2010, respectively. On December 17, 2010, the present petition was filed wherein petitioner again argues that the failure to respond was a result of applicant's duly appointed attorney's failure to forward the outstanding Office action to applicant.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director 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(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner's argument has been considered, but the result in the same, applicant is bound by the consequences of the actions or inactions of his duly authorized and voluntarily chose representative. Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Director that the failure to respond was an unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

Since petitioner has not carried the burden of proof to establish to the satisfaction of the Director that the delay was unavoidable, the petition cannot be granted under the provisions of 37 CFR 1.137(a).

ALTERNATIVE VENUE

While this is not a final agency action within the meaning of 5 U.S.C.§ 704, petitioner is strongly encourage to consider filing a petition stating that the delay was unintentional under the provisions of 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee and the required reply, unless previously filed.

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 must be submitted within TWO (2) MONTHS from the mail date of this decision and should be addressed as follows:

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

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

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

By internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

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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MAILED
APR 28 2011
OFFICE OF PETITIONS

Shin-Jen SHIAO
4F-6, NO. 98 JIANZHONG ROAD
HSINCHU 30070 TW TAIWAN

In re Application of Shin-Jen Shiao Application No. 10/554,315 Filed: October 24, 2005 Attorney Docket No.: None	: : : : :	ON PETITION

This is a decision in response to the petition, filed March 21, 2011 and supplement on March 30, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is DISMISSED.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 28, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Since no extension of time under the provisions of 37 CFR 1.136(a) was obtained, the application became abandoned on September 29, 2007. A Notice of Abandonment was mailed on June 23, 2008.

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

In this regard, it is noted that an election of the invention to be examined has not been filed. For applicant's convenience a copy of the Office action of August 28, 2007 is enclosed.

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.

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[3]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[3] www.uspto.gov/ebc/efs help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/554,315	10/24/2005	Shin-Jen Shiao	JA-SHIAO-US-1	2698

7590 08/28/2007
Chauncey Johnson
14625 Baltimore Avenue # 282
Laurel, MD 20707

EXAMINER
THOMAS, TIMOTHY P

ART UNIT	PAPER NUMBER
1614	

MAIL DATE	DELIVERY MODE
08/28/2007	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.

Office Action Summary	Application No.	Applicant(s)
	10/554,315	SHIAO, SHIN-JEN
	Examiner	Art Unit
	Timothy P. Thomas	1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 24 October 2005.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 25-63 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 25-63 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 25-33, 56-62, drawn to a drug composition containing edible acid and/or acidic salt and a pharmaceutically acceptable compound.

Group II, claim(s) 34-39, 55 (in part; when a product of any one of claims 47-50) drawn to a health care food.

Group III, claim(s) 55 (in part; when a product of any one of claims 51-54), drawn to allergy-free clothing.

Group IV, claim(s) 47-50, drawn to a method of preparing protein-denatured food.

Group V, claim(s) 51-54, drawn to a method of producing allergy free clothing.

Group VI, claim(s) 63, drawn to a method of treating or alleviating hypersensitivity diseases.

Note 1: Claims 40-41, drawn to "use" claims, have not been placed with any of the above groups, since they may be interpreted in different ways; i.e., the claims may be interpreted as drawn to any of the following:

A drug composition;

A method to lower the humor pH; or

A method to treat or alleviate hypersensitivity diseases.

Upon amendment to clearly reflect applicant's intent, the claims may be rejoined to Group I or VI (or placed into another Group VII)

Note 2: Claims 42-46, drawn to "use" claims, have not been placed with any of the above groups, since they may be interpreted in different ways; i.e., the claims may be interpreted as drawn to any of the following:

A health food;

A method to lower the humor pH; or

A method to treat or alleviate hypersensitivity diseases.

Upon amendment to clearly reflect applicant's intent, the claims may be rejoined to Group II or VI (or placed into a Group VII)

2. The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking groups I-VI is an edible acid and/or acidic salt in the presence of another compound. Ohashi, et al. (US 6,297,244 B1) teaches a stable drug composition comprised of AS-3201 and at least one acidic substance, such as ascorbic acid, citric acid, tartaric acid, lactic acid, maleic acid, malic acid or phosphoric acid (edible acids; abstract). Since the prior art teaches the technical feature the invention lacks novelty. Therefore the technical feature linking the inventions of groups I-VI does not constitute a special technical feature as defined by PCT Rule 13.2 as it does not define a contribution over the prior art. Accordingly, Groups I-VI are not so linked by the same or a corresponding special technical feature as to form a single inventive concept.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

(i) If Group I is elected applicant must elect one from (ia)-(ic):

(ia) a composition containing an edible acid and/or acidic salt and a pharmaceutically acceptable compound that lowers pH (claim 25); if elected applicant must elect:

(ia1) a single disclosed edible acid specie or a single disclosed acid salt specie or a disclosed combination of acid and salt species (from species in claim 26); and

(ia2) a single disclosed pharmaceutically acceptable compound specie that lowers pH;

(ib) a composition containing an edible acid and/or acidic salt (that lowers pH) and a single drug (claims 56-58, 60-61);); if elected applicant must elect:

(ib1) a single disclosed edible acid specie or a single disclosed acid salt specie or a disclosed combination of acid and salt species (from species in claim 26); and

(ib2) a single disclosed drug subgenus (from species in claims 56-58, 60-61); and

(ib3) a single disclosed drug specie (e.g., diphenhydramine, Table 3, specification);

or

(ic) a composition containing an edible acid and/or acidic salt (that lowers pH) and two different drugs (claim 59); if elected applicant must elect:

(ic1) a single disclosed edible acid specie or a single disclosed acid salt specie or a disclosed combination of acid and salt species (from species in claim 26); and

(ic2) two disclosed drug subgenuses (from species in claims 56-58, 60-61); and

(ic3) two disclosed drug species (e.g., diphenhydramine, Table 3, specification);

(ii) If Group II is elected applicant must elect one from (iia)-(iib):

(iia) a composition containing an edible acid and/or acidic salt and a food acceptable compound that lowers pH (claim 34); if elected applicant must elect:

(iia1) a single disclosed edible acid specie or a single disclosed acid salt specie or a disclosed combination of acid and salt species (from species in claim 35); and

(iia2) a single disclosed food acceptable compound specie that lowers pH;

or

(iib) a composition containing an edible acid and/or acidic salt (that lowers pH) and a food (claims 36-37, 39); if elected applicant must elect:

(iib1) a single disclosed edible acid specie or a single disclosed acid salt specie or a disclosed combination of acid and salt species (from species in claim 35); and

(iib2) a single disclosed food or drink specie (from species in claims 36-37, 39);

or

(iii) If any of Groups III-VI is elected applicant must elect:

(iia) a single disclosed edible acid specie or a single disclosed acid salt specie or a disclosed combination of acid and salt species (from species in claims 49, or 53);

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above in the following manner:

(i) Claims 25-33, 56-62

(ii) Claims 34-39, 55

(iii) Claims 47-55, 63

The following claim(s) are generic: all claims are generic for a edible acid and/or acidic salt.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: As described above the technical feature linking the acid species lacks novelty over the prior art; the other components are mutually exclusive. Therefore the species are not so linked by the same or a corresponding technical feature as to form a single inventive concept.

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not

distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

7. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP

§ 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P. Thomas whose telephone number is (571) 272-8994. The examiner can normally be reached on Monday-Thursday 6:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571) 272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TPT/
Timothy P. Thomas
Patent Examiner

Ardin H Marschel 8/24/07
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Shin-Jen SHIAO
4F-6, NO. 98 JIANZHONG ROAD
HSINCHU 30070 TW TAIWAN

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Application of :
Shin-Jen Shiao :
Application No. 10/554,315 :
Filed: October 24, 2005 :
Attorney Docket No.: None :

ON PETITION

This is a decision in response to the renewed petition, filed June 14, 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 September 29, 2007 for a failure to reply in a timely manner to a non-final Office action mailed August 28, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on June 23, 2008. On March 21, 2011, and supplemented on March 30, 2011, a petition to revive under the provisions of 37 CFR 1.137(b) was filed. The petition was dismissed in a decision mailed April28, 2011. In response, on June 14, 2011, the present petition was filed, along with a Request for Continued Examination (RCE) under 37 CFR 1.114.

Petitioner should note that the filing of a RCE is not permissible unless prosecution in the application is closed. Accordingly, the improper RCE will not be accepted and the RCE filing fee paid therefor is subject to refund.

Any request for refund of the RCE filing fee must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

Nonetheless, 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 the 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 1614 for consideration of the response filed June 14, 2011.

---

[1] This application has been abandoned for an extended period of time; therefore, 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).

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
www.uspto.gov

JEFFREY S. BOONE
MALLINCKROCDT INC.
675 MCDONNELL BOULEVARD
PO BOX 5840
ST LOUIS, MO 63134

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Roger Alberto, et al.
Application No. 10/554,331
Filed: October 24, 2005
Attorney Docket No. 1627 WO/US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 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, May 7, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1618 for appropriate action by the Examiner in the normal course of business on the reply received December 1, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/10

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10554444 Patent No.: 7677349

CofC mailroom date: 11/29/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can FAX the Director/SPE response to 571-270-9980

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

X **Approved** — **All** changes apply.

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

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

Formatted: Indent: Left: 1.22"

Comments: Approve to entered.

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE 3618

SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Tradem ark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10554444 Patent No.: 7677349

CofC mailroom date: 5/25/11

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
You can fax the Directors/SPE response to 571-270-9990

Note:

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE

3618
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110927

DATE : September 27, 2011

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 7605750

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: /Thomas H. Tarcza/ **Art Unit** 3662

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO CA 94303

MAILED
NOV 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Frank Matschullat	:	
Application No. 10/554,530	:	DECISION GRANTING PETITION
Filed: October 26, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 348162-982630	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 October 14, 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 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/554,723	10/27/2005	Yutaka Kiuchi	053194	9818

7590 04/13/2011
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
FRANKLIN, JAMARA ALZAIDA

ART UNIT	PAPER NUMBER
2876	

NOTIFICATION DATE	DELIVERY MODE
04/13/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 13, 2011

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of	:	
Yutaka Kiuchi et al.	:	**DECISION ON PETITION**
Application No. 10554723	:	
Filed: 10/27/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 053194	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 7, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

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 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Hubschwerlen, et al.	:	
Application No. 10/554,732	:	DECISION
Filed/Deposited: 28 October, 2005	:	
Attorney Docket No. 64391(41925)	:	

This is a decision on the petition filed on 5 February, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay, and—in light of the averment at page 2, paragraph 5 of the supporting statement submitted with the petition—also considered as a petition pursuant to37 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 **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

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

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. (Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).)

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 19 December, 2008, with reply due absent extension of time on or before 19 March, 2009.

The application went abandoned by operation of law after midnight 19 March, 2009.

The Office mailed the Notice of Abandonment on 21 August, 2009.

On 17 September, 2009, Petitioners filed a petition pursuant to 37 C.F.R. §1.181—and averred non-receipt of the Office action in question, however, Petitioner failed to provide the complete set of statements and the documentation required, as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). (These include, *inter alia*, statements of non-receipt at the correspondence address of record, search of the file and non-discovery, description of the docketing system and statement of sufficient reliability, a copy of the docket sheet (or file jacket cover) for the instant application and a copy of the due date calendar/docket for the office/firm and other such requirements as set forth in the guidance in the Commentary at MPEP §711.03(c)(I).) The petition was dismissed on 7 December, 2009

On 5 February, Petitioners filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, and made the statement of unintentional delay. Notably, at page 2, paragraph 5 of the supporting statement submitted with the petition, Petitioners once again averred that the Office action was not received, and so re-advanced their petition pursuant to 37 C.F.R. §1.181 requesting withdrawal of the holding of abandonment. However, Petitioners submitted no showing in support of that averment.

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

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not

received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

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

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

STATUTES, REGULATIONS 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).[3]
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.[4]))

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[1] *See*: MPEP §711.03(c) (I)(A).

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

[3] 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.

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.

Petitioners appear not to have made the showing required.

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

The instant application is released to the Technology Center/AU 1617 for further processing in due course.

Petitioners 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.

[4] 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.

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 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
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P.O. Box 1450
Alexandria, VA 22313-1450
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LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO, IL 60654-4746

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Kahn et al.	:	
Application No. 10/554,774	:	DECISION ON PETITION
Filed: November 10, 2006	:	
Attorney Docket No. 211486-10044	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fee(s) on or before July 6, 2009, as required by the Notice of Allowance and Fee(s) Due mailed April 6, 2009. Accordingly, the application became abandoned on July 7, 2009. A Notice of Abandonment was mailed February 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.

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) 272-6059.

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

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/10/11

TO SPE OF : ART UNIT 3663

SUBJECT : Request for Certificate of Correction for Appl. No.: 10554798 Patent No.: 7830746

CofC mailroom date: 12/28/10

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: _____

JACK KEITH
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/10

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 10554817 Patent No.: 7710890

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.

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

Comments: _____

/Ricky Ngo/ 2646
SPE **Art Unit**

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 15, 2010

TO SPE OF : ART UNIT 2878 - SPE Georgia Y. Epps

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/554,899 Patent No.: 7,488,924 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Antonio Johnson

Should the changes to the specification be approved?
See COCIN dated 08-31-2010

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: Please reference the documents submitted with the 371 Documents for the substitute specification

Georgia Y. Epps

SPE Georgia Y. Epps **Art Unit** 2878

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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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

SEP 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Tzschoppe, Wolfgang	:	DECISION ON PETITION
Application No. 10/554,900	:	TO WITHDRAW
Filed: October 28, 2005	:	FROM RECORD
Attorney Docket No. 4091.10WOUS	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 26, 2011.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address 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 the above certifications. Further, the request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40.

It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

The Office will <u>only</u> 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.

The Office will not change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. If the applicants wish future correspondence to be mailed to a new law firm, a new power of attorney should be submitted in the application and should include the desired change of correspondence address. Accordingly, as the Request to Withdraw specified a law firm as the new correspondence address of record, the request cannot be granted at this time.

Petitioner should note that the request is signed by the attorney of record, however it does not set forth an USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Patent No.7,829,682	:	
Elliot, et al.	:	DECISION FOR REQUEST
Issue Date: November 9, 2010	:	FOR RECONSIDERATION
Application No. 10/554,917	:	OF PATENT TERM
Filed: April 27, 2007	:	ADJUSTMENT
Attorney Docket No. **039386-2277**	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment for Patent under 37 CFR 1.705(d)," filed January 7, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from seven hundred and sixty-three (763) days, to eight hundred and fifty-three (853) days.

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

On November 9, 2010, the above-identified application matured into U.S. Patent No. 7,829,682, with a revised patent term of 763 days. The instant petition was filed on January 7, 2011. Patentees set forth no specific argument for the requested adjustment in the patent term, but conclude that the patent term should be adjusted by eight hundred and fifty-three days. The instant petition was accompanied by a chart showing patentee's calculation of the patent term adjustment. Patentees' chart increases the reduction to the patent term adjustment by periods of 7 days and 65 days. A review of the prosecution history does not reveal that entry of either period of reduction to the patent term adjustment is warranted.

Patentees are reminded 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). 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 154 days, beginning on January 28, 2010, the date of filing of the notice of appeal and ending on June 30, 2010, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 586 (740 – 154) days.

Accordingly, the patent term adjustment is 763 days (189days of A delay + 586 days of B delay – 0 days of overlap - 12 days of applicant delay). In view thereof, the patent term adjustment of 763 days indicated in the patent is correct.

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

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Peter MacDonald, et al.	:	
Application No. 10/554,937	:	DECISION ON PETITION
Filed: December 13, 2006	:	
Attorney Docket No.: 031749/302678	:	

This is a decision on the renewed petition, filed August 18, 2010, 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 reply to a final Office action mailed May 5, 2009. A Notice of Abandonment was mailed on December 9, 2009. On May10, 2010, a petition to withdraw the holding of abandonment under 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed July 28, 2010. In response, on August 18, 2010, the present petition was filed.

On reconsideration, petitioner has adequately supported his claim of non-receipt with the evidence provided.

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 2881 technical support staff for **re-mailing** the Office action of May 5, 2009. The period for reply will run from the mailing date of the Office action.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/09/11

TO SPE OF : ART UNIT: 1766 Attn: GULAKOWSKI RANDY P (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/554989 Patent No.: 7968645

CofC mailroom date: 08/25/11

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

Note: Please check Specifications & Claims
Should these changes be made 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.

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

Comments: _____

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE — 1766 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-02-11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/555034 Patent No.: 7410964

CofC mailroom date: 06-03-11

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

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.

- ☒ **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 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Jan Norager RASMUSSEN	:	
Application No. 10/555,226	:	DECISION ON PETITION
Filed: November 01, 2005	:	
Attorney Docket No. 8263/85988	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 05, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED as MOOT.**

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

This application was held abandoned for failure to reply to the final Office action mailed November 12, 2009, which set a three (3) month shortened statutory period for reply. The application became abandoned on February 13, 2010.

Petitioner asserts that the final Office action dated November 12, 2009 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 nonreceived 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 Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 3754 for appropriate action in the normal course of business on the reply received with petition.

/Thurman K. Page/
Thurman K. Page
Petitions Examiner
Office of Petitions

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120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Jan Norager Rasmussen	:	
Application No. 10/555,226	:	DECISION ON REQUEST FOR REFUND
Filed: November 1, 2005	:	
Attorney Docket No. 8263-85988-US	:	

This is a decision on the Request For Refund filed May 5, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "On August 5, 2010, Applicant submitted a Petition Under 37 C.F.R. § 1.137(a) To Revive An Unavoidably Abandoned Application Or, In The Alternative, Petition Under 37 C.F.R. § 1.137(b) To Revive An Unintentionally Abandoned Application with the corresponding fees of $540.00 and $1,620.00. On December 6, 2010, the petition under Petition Under 37 C.F.R. § 1.137(a) was dismissed as moot. Instead, a petition under 37 C.F.R. §1.181 was granted, which required no fee."

In view of the above, the petition fees ($540.00 and $1,620.00) submitted on August 5, 2010 is being credited to deposit account no.06-1135 as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10555248
Filing Date	20-Dec-2006
First Named Inventor	Duncan Hunter
Art Unit	1612
Examiner Name	BRIAN GULLEDGE
Attorney Docket Number	346715-0653
Title	Prosthetic groups attached to stannyl polymer in the synthesis of radiopharmaceuticals

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 48329

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	Mr. John Garvey K&L Gates
Address	One Lincoln Street
City	Boston
State	MA
Postal Code	02111
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Michel Morency/
Name	Michel Morency
Registration Number	50183

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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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Decision Date : April 18, 2012

In re Application of :

Duncan Hunter

Application No : 10555248

Filed : 20-Dec-2006

Attorney Docket No : 346715-0653

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 April 18, 2012

The request is **APPROVED.**

The request was signed by Michel Morency (registration no. 50183) on behalf of all attorneys/agents associated with Customer Number 48329 . All attorneys/agents associated with Cusotmer Number 48329 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	Mr. John Garvey
Name2	K&L Gates
Address 1	One Lincoln Street
Address 2	
City	Boston
State	MA
Postal Code	02111
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/03/2010

Applicant	: Philippe Watine	: DECISION ON REQUEST FOR
Patent Number	: 7655263	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/555,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **820** 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,909,288 :
Issue Date: March 22, 2011 :
Application No. 10/555,439 : ON PETITION
Filed: June 27, 2006 :
Attorney Docket No. 2149-194 :

This is a decision on the petition filed August 8, 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 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.

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17TH FLOOR
LOS ANGELES CA 90010

MAILED
JUN 10 2011
OFFICE OF PETITIONS

In re Application of :
Chung et al. :
Application No. 10/555,538 : DECISION ON PETITION
Filed: November 4, 2005 :
Attorney Docket No. 2017-022 :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on April 29, 2011.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on April 14, 2009. The non-final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application became abandoned on July 15, 2009. A Notice of Abandonment was mailed on December 9, 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 $810.00, and (3) a 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 1644 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Attorney
Office of Petitions

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of
Harri Myllynen, et al.
Application No. 10/555,543
Filed: March 6, 2006
Attorney Docket No. 44427-24

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2011, 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 21, 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) was obtained. Accordingly, the application became abandoned on December 11, 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.

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.

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 January 20, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received January 20, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Madlambayan et al. :
Application No. 10/555,604 :
Filed: December 8, 2006 :
Attorney Dkt. No. 350985-0103 :
(IBI-001US) :
For: APPARATUS AND METHODS FOR :
AMPLIFICATION OF BLOOD STEM :
CELL NUMBERS :

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 April 22, 2010. This application is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from two hundred thirty-seven (237) days to five hundred eighty-five (585) days.

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). The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the

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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.

notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

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 237 days. The instant application for patent term adjustment was timely filed on April 22, 2010.

Applicants state that an additional reduction of 28 days for the submission of a reply to the Notice of Missing Parts on December 8, 2006.

The Office has considered applicants' argument and finds it persuasive. A review of the application history reveals that applicants should have been assessed a delay of twenty-eight (28) 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.

Pursuant to 37 CFR 1.704(b), a reduction of 28 days is required for applicant delay for the period beginning November 11, 2006, the day after the date that is three months after the mailing of the Notice to File Missing Parts on August 10, 2006 and ending on December 8, 2006, the date the reply was filed. An additional reduction period of 28 days will be entered.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is two hundred nine (209) 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 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

Enclosure: Copy of REVISED PALM Screen

Day : Friday
Date: 7/30/2010

PALM INTRANET

Time: 11:08:43

PTA Calculations for Application: 10/555604			
Application Filing Date:	12/08/2006	PTO Delay (PTO):	265
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	28
Post-Issue Petitions:	0	Total PTA (days):	209
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	07/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
57	01/26/2010	MAIL NOTICE OF ALLOWANCE			
56	01/14/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	01/20/2010	EXAMINER'S AMENDMENT COMMUNICATION			
54	01/20/2010	DOCUMENT VERIFICATION			
53	01/20/2010	ISSUE REVISION COMPLETED			
52	01/20/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	01/20/2010	CASE DOCKETED TO EXAMINER IN GAU			
50	01/19/2010	NOTICE OF ALLOWABILITY			
46	11/19/2009	DATE FORWARDED TO EXAMINER			
45	11/13/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
44	11/19/2009	DATE FORWARDED TO EXAMINER			
43	11/13/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	11/19/2009	DISPOSAL FOR A RCE / CPA / R129			
41	11/13/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	08/25/2009	MAIL FINAL REJECTION (PTOL - 326)			
39	08/24/2009	FINAL REJECTION			
38	06/17/2009	NEW OR ADDITIONAL DRAWING FILED			
37	06/17/2009	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
36	07/02/2009	DATE FORWARDED TO EXAMINER			
35	06/17/2009	RESPONSE AFTER NON-FINAL ACTION		28	33
34	06/17/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			

33	02/20/2009	MAIL NON-FINAL REJECTION			
32	02/17/2009	NON-FINAL REJECTION			
24	12/17/2008	DATE FORWARDED TO EXAMINER			
23	12/01/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
22	10/30/2008	MAIL RESTRICTION REQUIREMENT	265		11
21	10/30/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
20	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	08/19/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	07/12/2007	PG-PUB ISSUE NOTIFICATION			
12	04/24/2007	APPLICATION DISPATCHED FROM OIPE			
11	12/08/2006	371 COMPLETION DATE			
10	04/03/2007	SENT TO CLASSIFICATION CONTRACTOR			
9	04/03/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
8	12/08/2006	ADDITIONAL APPLICATION FILING FEES			
5	12/08/2006	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

EXPLANATION OF PTE CALCULATION

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c/o PETER NIEVES
1000 ELM STREET
MANCHESTER NH 03105-3701

MAILED

JAN 24 2012

OFFICE OF PETITIONS

In re Application of:
HAUSNER, et al.
Application No. 10/555,713
Filed: October 20, 2006
Attorney Docket No. **41067-06124**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 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 June 30, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three months 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 31, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $930.00 (Fee Code 1801), and the submission required by 37 CFR 1.114 that was previously submitted on December 30, 2011; (2) the petition fee of $1860.00 (Fee Code 1453); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

This application is being referred to Technology Center AU 2894 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted on December 30, 2011.

Brian W. Brown
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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Date : August 24 2011

Patent No. :7982031
Ser. No. :10555714
Inventor(s) :Jorg Kowalczyk
Issued :July 19, 2011
Title :METHOD FOR SELECTIVE CARBOHYDRATE OXIDATION USING SUPPORTED

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272- 9005

Ostrolenk Faber LLP
1180 Avenue of the Americas
New York, NY 10036-840

/arg

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PETER K TRZYNA
P.O. BOX 7131
CHICAGO IL 60680- 7131

MAILED
DEC 05 2011
OFFICE OF PETITIONS

In re Application of
Crispina O. Caballero et al
Application No. 10/555,801
Filed: January 9, 2007
Attorney Docket No. MCEA-P1-04

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, December 5, 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 October 19, 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 3693 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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).

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LUCAS & MERCANTI LLP
475 PARK AVENUE SOUTH
NEW YORK NY 10016

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Schmidt et al.	:	
Application No. 10/555,854	:	ON PETITION
Filed: November 5, 2005	:	
Attorney Docket No. HM-667PCT	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 30, 2010 and August 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and 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 3749 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

7794884UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7794884
Application No.: 10/555882
Inventor(s) : Jean-Claude JUMAS et al.
Issued : 09/14/2010
Title : NEGATIVE ELECTRODE FOR LITHIUM BATTERIES
Docket No. : 13810-15

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.

The alleged error appearing in the Foreign Application Priority Data in printed patent is a change made in accordance with the Style Manual of the Government Printing Office and the Patent Data Base Entry Preparation Manual. Therefore, no Correction is in order here under Rules 1.322 or 1.323.

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

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
Of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 10/15/2010

Address: Allyn B. Rhodes
BRINKS HOFER GILSON & LIONE
Post Office Box 110285
Research Triangle Park, North Carolina 27709

ts/md

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Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Pros Hwy

PTO/SB/20PCT-EP (05-10)
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REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE EUROPEAN PATENT OFFICE (EPO) AND THE USPTO

Application No:	10/555,895	Filing date:	US Filing Date: November 2, 2006
First Named Inventor:	Jeffrey E. Yeung		
Title of the Invention:	Treating Back Pain by Re-Establishing the Exchange of Nutrient & Waste		

THIS REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM ALONG WITH THE REQUIRED DOCUMENTS MUST BE SUBMITTED VIA EFS-WEB. INFORMATION REGARDING EFS-WEB IS AVAILABLE AT HTTP://WWW.USPTO.GOV/EBC/EFS_HELP.HTML

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PCT-PPH PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PCT-PPH PROGRAM.

The above-identified application is (1) a national stage entry of the corresponding PCT application, or (2) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (3) a national application that claims domestic/ foreign priority to the corresponding PCT application, or (4) a national application which forms the basis for the priority claim in the corresponding PCT application, or (5) a continuing application of a U.S. application that satisfies one of (1) to (4) above, or (6) a U.S. application that claims domestic benefit to a U.S. provisional application which forms the basis for the priority claim in the corresponding PCT application.

The corresponding PCT application number(s) is/are: PCT/US2004/014368

The international date of the corresponding PCT application(s) is/are: May 7, 2004

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above-identified corresponding PCT application(s)**

☐ Is attached

☑ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☑ Is attached.

☐ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). 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 2 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.

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REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE EPO AND THE USPTO

(continued)

Application No.:	
First Named Inventor:	

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

- [✓] Is attached
- [ ] Has already been filed in the above-identified U.S. application on _____

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

- [ ] Are attached.
- [✓] Have already been filed in the above-identified U.S. application on _____

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1-91	1-91	The US Application claims are same as PCT Application.
92-98	new	These kit claims were added & approved by EPO.

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature	Date October 7, 2010
Name (Print/Typed) Jeffrey E. Yeung	Registration Number

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US 10/555895, PCT/US2004/14368, EU Patent 1620024, Canadian Patent 2524443 & Others

Europäisches Patentamt | European Patent Office | Office européen des brevets

Urkunde Certificate Certificat

Es wird hiermit bescheinigt, dass für die in der Patentschrift beschriebene Erfindung ein europäisches Patent für die in der Patentschrift bezeichneten Vertragsstaaten erteilt worden ist.

It is hereby certified that a European patent has been granted in respect of the invention described in the patent specification for the Contracting States designated in the specification.

Il est certifié qu'un brevet européen a été délivré pour l'invention décrite dans le fascicule de brevet pour les états contractants désignés dans le fascicule de brevet.

Europäisches Patent Nr. | European Patent No. | Brevet européen n°

1620024

Patentinhaber | Proprietor of the Patent | Titulaire du brevet

Aleeva Medical, Inc.
834 North White Road
San Jose CA 95127-1024/US

München, den 04.04.07
Munich
Fait à Munich le

Alain Pompidou
Präsident des Europäischen Patentamts
President of the European Patent Office
Président de l'Office européen des brevets

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US 10/555895, PCT/US2004/14368, EU Patent 1620024, Canadian Patent 2524443 & Others

(19) Europäisches Patentamt / European Patent Office / Office européen des brevets

(11) EP 1 620 024 B1

(12) EUROPEAN PATENT SPECIFICATION

(45) Date of publication and mention of the grant of the patent: 04.04.2007 Bulletin 2007/14

(21) Application number: 04760924.3

(22) Date of filing: 07.05.2004

(51) Int Cl.: A61B 17/88 (2006.01)

(86) International application number: PCT/US2004/014368

(87) International publication number: WO 2004/101015 (25.11.2004 Gazette 2004/48)

(54) **DEVICE FOR TREATING BACK PAIN BY RE-ESTABLISHING THE EXCHANGE OF NUTRIENT AND WASTE**

VORRICHTUNG ZUR BEHANDLUNG VON RÜCKENSCHMERZEN DURCH WIEDERHERSTELLUNG DES AUSTAUSCHES VON NÄHRSTOFFEN & ABFALLSTOFFEN

DISPOSITIF POUR LE TRAITEMENT DU MAL DE DOS PAR LE RETABLISSEMENT DE L'ECHANGE D'ELEMENTS NUTRITIFS ET DE DECHETS

(84) Designated Contracting States: AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IT LI LU MC NL PL PT RO SE SI SK TR

(30) Priority: 07.05.2003 US 468770 P
20.08.2003 US 480057 P
16.09.2003 US 503553 P
12.12.2003 US 529065 P

(43) Date of publication of application: 01.02.2006 Bulletin 2006/05

(73) Proprietor: Aleeva Medical, Inc.
San Jose CA 95127-1024 (US)

(72) Inventor: YEUNG, Jeffrey, E.
San Jose, CA 95127-1024 (US)

(74) Representative: Stainthorpe, Vanessa Juliet et al
Harrison Goddard Foote,
Fountain Precinct
Balm Green
Sheffield S1 2JA (GB)

(56) References cited:
WO-A-02/17825
DE-A- 4 440 346
FR-A- 2 586 183
US-A1- 2001 053 914

Note: Within nine months from the publication of the mention of the grant of the European patent, any person may give notice to the European Patent Office of opposition to the European patent granted. Notice of opposition shall be filed in a written reasoned statement. It shall not be deemed to have been filed until the opposition fee has been paid. (Art. 99(1) European Patent Convention).

endorphin, enkephalin, ergocalciferol, erythropoietin, follicle stimulating hormone; γ-aminobutyrate, gastrin, ghrelin, glucagon, glucocorticoids, gonadotropin-releasing hormone, growth hormone-releasing hormone, human chorionic gonadotrophin, human growth hormone, insulin, insulin-like growth factor, leptin, lipotropin, luteinizing hormone, melanocyte-stimulating hormone, melatonin, mineralocorticoids, neuropeptide Y, neurotransmitter, noradrenaline, oestrogens, oxytocin, parathyroid hormone, peptide, pregnenolone, progesterone, prolactin, pro-opiomelanocortin, PYY-336, renin, secretin, somatostatin, testosterone, thrombopoietin, thyroid-stimulating hormone, thyrotropin-releasing hormone, thyroxine, triiodothyronine, trophic hormone, serotonin, vasopressin, or other therapeutic products.

[0070] The products (hormones, peptides, neurotransmitter, enzymes, catalysis or substrates) generated within the shunted disc 100 may be able to regulate bodily functions including blood pressure, energy, neuro-activity, metabolism, activation and suppression of gland activities. Some hormones and enzymes govern, influence or control eating habits and utilization of fat or carbohydrates. These hormones or enzymes may provide weight loss or gain benefits. Producing neurotransmitters, such as dopamine, adrenaline, noradrenaline, serotonin or γ-aminobutyrate, from the donor cells 277 within the shunted disc 100 can treat depression, Parkinson's disease, learning disability, memory loss, attention deficit, behavior problems, metal or neuro-related disease.

[0071] Release of the products biosynthesized by the donor cells 277 within the shunted disc 100 is synchronized with body activity. During activities of daily living, the pressure within the shunted disc 100 is mostly high to expel the products biosynthesized by the donor cells 277 into circulation to meet the demands of the body. In the supine position, the flow within the shunts 126 is reversed, bringing nutrients and oxygen into the disc 100 to nourish the cells 277. Using islets of Langerhans from the donor's pancreas as an example, production of insulin is induced in the shunted disc 100 during sleeping hours when glucose enters into the disc 100. During waking hours when disc pressure is high, insulin is expelled through the conduits 126 into circulation to draw sugars into cell membranes for energy production. At night, the insulin released from the shunted disc 100 is minimal to prevent the hypoglycemia. In essence, products biosynthesized by the donor cells 277 are released concurrent with physical activity to meet the demands of the body.

[0072] Some biosynthesized products from the donor cells 277 are appropriately deposited through the vertebral body 159, as shown in Figure 91, then into bodily circulation. Other products may be more effectively transported through the outer annulus, as in Figure 82, and diffused through the abdomen into bodily circulation. Some other products may be far more effective by entering into the muscles 193, as shown in Figure 92.

[0073] Growth factors, buffering agents, hormones, gene therapeutic agents, nutrients, minerals, analgesics, antibiotics or other therapeutic agents can also be injected into the shunted discs 100, similar to Figures 91-92.

[0074] It is to be understood that the present invention is by no means limited to the particular constructions disclosed herein and/or shown in the drawings, but also includes any other modification, changes or equivalents within the scope of the claims. Many features have been listed with particular configurations, curvatures, options, and embodiments. Any one or more of the features described may be added to or combined with any of the other embodiments or other standard devices to create alternate combinations and embodiments. The conduit 126 can also have a gate to regulate rate and/or flow direction of nutrient, gas and waste exchange. It is also possible to connect a pump to the conduit 126 to assist the exchange between the disc 100 and the bodily fluid. A pH electrode may be exposed near the tip of the rigid needle 220 to detect the acidity within the disc 100.

[0075] It should be clear to one skilled in the art that the current embodiments, materials, constructions, methods, tissues or incision sites are not the only uses for which the invention may be used. Different materials, constructions, methods or designs for the conduit 126 can be substituted and used. Nothing in the preceding description should be taken to limit the scope of the present invention. The full scope of the invention is to be determined by the appended claims. For clarification in claims, sheath is a rigid tubular member. The elastically curved needle 101 can be called the elastic needle.

Claims

1. A deployment device for deploying a conduit into an intervertebral disc, the deployment device comprising:

   a tubular sheath,
   a conduit sized and configured to fit at least partially within said tubular sheath, and
   a plunger to deploy said conduit.

2. The deployment device of claim 1, wherein said tubular sheath has a beveled tip.

3. The deployment device of claim 1, further comprising a needle located at least partially within said tubular sheath, preferably wherein said conduit is located at least partially within or around said needle.

4. The deployment device of claim 1, wherein said conduit is formed of a biodegradable material, preferably chosen from the group of materials consisting of polylactate, polyglycolic, poly-lactide-co-glycolide, polycaprolactone, trimethylene carbonate, silk, catgut, collagen, poly-p-dioxanone, polydioxanone, polyanhydride, trimethylene carbonate, poly-beta-hydroxybutyrate, polyhydroxyvalerate, poly-gama-

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ethyl-glutamate, poly-DTH-iminocarbonate, poly-bisphenol-A-iminocarbonate, poly-ortho-ester, polycyanoacrylate and polyphosphazene.

5. The deployment device of claim 1, wherein said conduit is formed of a non-degradable material, preferably chosen from the group of materials consisting of polytetrafluoroethylene, polypropylene, polyethylene, polyamide, polyester, polyurethane, silicon, poly-ether-ether-ketone, acetal resin, polysulfone, polycarbonate, silk, cotton, linen, fiberglass, nickel-titanium alloy and stainless steel.

6. The deployment device of claim 1, wherein at least a portion of said conduit is coated with fibrous tissue inhibitor.

7. A deployment device for deploying a conduit into an intervertebral disc, the deployment device comprising:

a tubular sheath,
a first elastic needle having a straightened position and a curved position, said straightened position being elastically straightened within said tubular sheath, and said curved position being elastically curved and located at least partially outside said tubular sheath,
an actuator to moved said first elastic needle between said straightened position and said curved position, and
a conduit sized and configured to fit at least partially within said tubular sheath.

8. The deployment device of claim 7, wherein said first elastic needle has a beveled tip and, preferably, wherein a point of said beveled tip is located on a concave side of said first elastic needle, when said first elastic needle is in said curved position.

9. The deployment device of claim 7, wherein said tubular sheath has a sharp tip and preferably, wherein said sharp tip is oriented on a convex side of said first elastic needle, when said first elastic needle is in said curved position.

10. The deployment device of claim 7, wherein said tubular sheath and said first elastic needle have non-round cross sections, preferably having similar cross-sectional shapes.

11. The deployment device of claim 7, wherein said tubular sheath and said first elastic needle have oval cross sections.

12. The deployment device of claim 7, further comprising a second elastic needle, said second elastic needle located at least partially around said first elastic needle and preferably, wherein said first and second elastic needles have similar curvatures and said curvatures are oriented in similar directions.

13. The deployment device of claim 7, further comprising an opening extending through a wall of said tubular sheath proximate a distal end thereof.

14. The deployment device of claim 7, wherein said tubular sheath has a ramp located therein, said ramp preferably being located proximate a distal end of said tubular sheath and located proximate a convex side of said first elastic needle.

15. The deployment device of claim 7, wherein said first elastic needle is formed of nickel-titanium alloy.

16. The deployment device of claim 7, wherein said first elastic needle has a non-uniform cross-section, preferably, wherein said first elastic needle has a distal end and a proximal end, said distal end being smaller than said proximal end.

17. The deployment device of claim 7, further comprising a plunger for deploying said conduit.

18. The deployment device of claim 1 or claim 7, further comprising a coating on said tubular sheath.

19. The deployment device of claim 1 further comprising a coating on said tubular sheath or of claim 7, further comprising a coating on said first elastic needle.

20. The deployment device of claim 19, wherein the coating is chosen from the group of coatings consisting of lubricant, tissue sealant, analgesic, antibiotic, radiopaque, magnetic and echogenic agents.

21. The deployment device of claim 1 or claim 7, wherein said conduit is a tube, a multifilament or a sponge formed of a biocompatible material.

22. The deployment device of claim 1 or claim 7, wherein said conduit has a plurality of protrusions extending therefrom.

23. The deployment device of claim 1 or claim 7, wherein said conduit is formed of a multi-filament portion and a mono-filament portion.

24. The deployment device of claim 7, wherein said conduit is located within or at least partially around said first elastic needle.

25. The deployment device of claim 1 or claim 7, wherein said conduit has a coating chosen from the group of coatings consisting of antibiotic, anti-occlusive coating, lubricant, growth factor, nutrient, sulfate, miner-

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al, buffering agent, sodium carbonate, sodium bicarbonate, alkaline, collagen, hydroxyapatite, analgesic, sealant, humectant, hyaluronate, proteoglycan, chondroitin sulfate, keratan sulfate, glycosaminoglycans, heparin, starch, stiffening agent, radiopaque coating, echogenic coating, gene, cells and stem cells.

26. The deployment device of claim 1 or claim 7, wherein said conduit has a pore size of 200 microns to 10 nanometers.

27. The deployment device of claim 1 or claim 7, wherein said conduit has channels therethrough, said channels having a diameter of 200 microns to 10 nanometers.

28. The deployment device of claim 1 or claim 7, further comprising a tube located around a central portion of said conduit.

29. The deployment device of claim 28, wherein said tube is formed of a material chosen from the group of materials consisting of polytetrafluoroethylene, polypropylene, polyethylene, polyamide, polyester, polyurethane, silicon, poly-ether-ether-ketone, acetal resin, polysulfone, polycarbonate and polyethylene glycol.

30. A conduit for re-establishing exchange of nutrients and waste between an intervertebral disc and bodily circulation, the conduit comprising:

an elongated member formed of a biocompatible material, said elongated member being locatable such that a first portion of said elongated member is within a patient's nucleus pulposus within the intervertebral disc.

31. The conduit of claim 30, wherein a second portion of said elongated member is locatable such that said second portion extends through an endplate and into a vertebra.

32. The conduit of claim 30, wherein said elongated member has a second portion and a central portion, wherein said elongated member is locatable such that said central portion extends through a periphery of the intervertebral disc and said second portion extends outside the intervertebral disc.

33. The conduit of claim 30, wherein a second portion of said elongated member is locatable such that said second portion extends to an outer annulus of the intervertebral disc.

34. The conduit of claim 30, wherein said conduit is a tube, a multifilament (preferably braided) or a sponge formed of a biocompatible material.

35. The conduit of claim 30, wherein said conduit has a plurality of protrusions extending therefrom.

36. The conduit of claim 30, wherein said conduit is formed of a multi-filament portion and a mono-filament portion.

37. The conduit of claim 30, wherein said conduit is formed of a biodegradable material.

38. The conduit of claim 30, wherein said conduit is formed of a non-degradable material.

39. The conduit of claim 30, wherein said conduit is porous and has a pore size of 200 microns to 10 nanometers.

40. The conduit of claim 30, wherein said conduit has channels therethrough, said channels each having a diameter of 200 microns to 10 nanometers.

41. The conduit of claim 30, further comprising a tube located around a central portion of said conduit, the tube preferably being formed of a material chosen from the group of materials consisting of polytetrafluoroethylene, polypropylene, polyethylene, polyamide, polyester, polyurethane, silicon, poly-ether-ether-ketone, acetal resin, polysulfone, polycarbonate and polyethylene glycol.

42. The conduit of claim 30, wherein at least a portion of said conduit is coated with fibrous tissue inhibitor.

43. A kit for injecting donor cells into a patient's intervertebral disc comprising:

the conduit of any of claims 30-42,
and donor cells injectable into the intervertebral disc.

44. The kit of claim 43, wherein the donor cells are from a gland, from a tissue or have an origin chosen from the group of origins consisting of the pituitary gland, hypothalamus, adrenal gland, adrenal medulla, fat cells, thyroid, parathyroid, pancreas, testes, ovary, pineal gland, adrenal cortex, liver, renal cortex, kidney, thalamus, parathyroid gland, ovary, corpus luteum, placenta, small intestine, skin cells, stem cells, gene therapy, tissue engineering and cell culture.

45. The kit of claim 43, further comprising growth factor injectable into the intervertebral disc.

46. The kit of claim 43, wherein the donor cells are capable of creating a therapeutic product or a product chosen from the group of biosynthesized products

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consisting of adrenaline, adrenocorticotropic hormone, aldosterone, androgens, angiotensinogen (angiotensin I and II), antidiuretic hormone, atrial-natriuretic peptide, calcitonin, calciferol, cholecalciferol, calcitriol, cholecystokinin, corticotropin-releasing hormone, cortisol, dehydroepiandrosterone, dopamine, endorphin, enkephalin, ergocalciferol, erythropoietin, follicle stimulating hormone, γ-aminobutyrate, gastrin, ghrelin, glucagon, glucocorticoids, gonadotropin-releasing hormone, growth hormone-releasing hormone, human chorionic gonadotrophin, human growth hormone, insulin, insulin-like growth factor, leptin, lipotropin, luteinizing hormone, melanocyte-stimulating hormone, melatonin, mineralocorticoids, neuropeptide Y, neurotransmitter, noradrenaline, oestrogens, oxytocin, parathyroid hormone, peptide, pregnenolone, progesterone, prolactin, pro-opiomelanocortin, PYY-336, renin, secretin, somatostatin, testosterone, thrombopoietin, thyroid-stimulating hormone, thyrotropin-releasing hormone, thyroxine, triiodothyronine, trophic hormone, serotonin, and vasopressin.

Patentansprüche

1. Ausbringvorrichtung zum Ausbringen einer Leitung in eine Bandscheibe, wobei die Ausbringvorrichtung aufweist:

   eine röhrenförmige Hülse,
   eine Leitung, die so bemessen und gestaltet ist, um wenigstens teilweise in die röhrenförmige Hülse zu passen, und
   einen Stößel zum Ausbringen der Leitung.

2. Ausbringvorrichtung nach Anspruch 1, wobei die röhrenförmige Hülse eine abgeschrägte Spitze hat.

3. Ausbringvorrichtung nach Anspruch 1, die weiter eine Nadel aufweist, die wenigstens teilweise innerhalb der röhrenförmigen Hülse angeordnet ist, wobei die Leitung vorzugsweise wenigstens teilweise innerhalb oder um die Nadel herum angeordnet ist.

4. Ausbringvorrichtung nach Anspruch 1, wobei die Leitung aus einem biodegradierbaren Material ausgebildet ist, das vorzugsweise ausgewählt ist aus der Gruppe der Materialien bestehend aus Polylactat, Polyglycol, Polylactid-co-Glycolid, Polycaprolacton, Trimethylencarbonat, Seide, Katgut, Kollagen, Poly-p-Dioxanon, Polydioxanon, Polyanhydrid, Trimethylencarbonat, Poly-beta-Hydroxybutyrat, Polyhydroxyvalerat, Poly-gamma-Ethylglutamat, Poly-DTH-Iminocarbonat, Poly-Bisphenol-A-Iminocarbonat, Polyorthoester, Polycyanoacrylat und Polyphosphazen.

5. Ausbringvorrichtung nach Anspruch 1, wobei die Leitung aus einem nicht abbaubaren Material ausgebildet ist, das vorzugsweise ausgewählt ist aus der Gruppe der Materialien bestehend aus Polytetrafluorethylen, Polypropylen, Polyehtylen, Polyamid, Polyester, Polyurethan, Silikon, Polyetheretherketon, Acetalharz, Polysulfon, Polycarbonat, Seide, Baumwolle, Leinen, Fiberglas, Nickeltitanlegierung und Edelstahl.

6. Ausbringvorrichtung nach Anspruch 1, wobei wenigstens ein Teil der Leitung mit dem Fasergewebeinhibitor beschichtet ist.

7. Ausbringvorrichtung zum Ausbringen einer Leitung in eine Bandscheibe, wobei die Ausbringvorrichtung aufweist:

   Eine röhrenförmige Hülse,
   eine erste elastische Nadel mit einer gerade gerichteten Stellung und einer gekrümmten Stellung, wobei die gerade Stellung elastisch innerhalb der röhrenförmigen Hülse gerade gerichtet ist, und wobei die gekrümmte Stellung elastisch gekrümmt ist und wenigstens teilweise außerhalb der röhrenförmigen Hülse liegt,
   einen Betätiger, um die erste elastische Nadel zwischen der gerade gerichteten Stellung und der gekrümmten Stellung zu bewegen, und
   eine Leitung, die so bemessen und gestaltet ist, um wenigstens teilweise in die röhrenförmige Hülse zu passen.

8. Ausbringvorrichtung nach Anspruch 7, wobei die erste elastische Nadel eine abgeschrägte Spitze hat und wobei vorzugsweise ein Punkt der abgeschrägte Spitze an einer konkaven Seite der ersten elastischen Nadel angeordnet ist, wenn sich die erste elastische Nadel in der gekrümmten Stellung befindet.

9. Ausbringvorrichtung nach Anspruch 7, wobei die röhrenförmige Hülse eine scharfe Spitze hat und wobei die scharfe Spitze vorzugsweise auf eine konvexe Seite der ersten elastischen Nadel gerichtet ist, wenn die erste elastische Nadel in der gekrümmten Stellung ist.

10. Ausbringvorrichtung nach Anspruch 7, wobei die röhrenförmige Hülse und die erste elastische Nadel nicht-runde Querschnitte haben, wobei sie vorzugsweise ähnliche Querschnittsformen haben.

11. Ausbringvorrichtung nach Anspruch 7, wobei die röhrenförmige Hülse und die erste elastische Nadel ovale Querschnitte haben.

12. Ausbringvorrichtung nach Anspruch 7, die weiter eine zweite elastische Nadel aufweist, wobei die zwei-

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US 10/555895, PCT/US2004/14368, EU Patent 1620024, Canadian Patent 2524443 & Others

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Canadian Intellectual Property Office
An Agency of Industry Canada

Brevet canadien / Canadian Patent

Le commissaire aux brevets a reçu une demande de délivrance de brevet visant une invention. Ladite requête satisfait aux exigences de la *Loi sur les brevets*. Le titre et la description de l'invention figurent dans le mémoire descriptif, dont une copie fait partie intégrante du présent document.

Le présent brevet confère à son titulaire et à ses représentants légaux, pour une période expirant vingt ans à compter de la date du dépôt de la demande au Canada, le droit, la faculté et le privilège exclusif de fabriquer, construire, exploiter et vendre à d'autres, pour qu'ils l'exploitent, l'objet de l'invention, sauf jugement en l'espèce rendu par un tribunal compétent, et sous réserve du paiement des taxes périodiques.

The Commissioner of Patents has received a petition for the grant of a patent for an invention. The requirements of the *Patent Act* have been complied with. The title and a description of the invention are contained in the specification, a copy of which forms an integral part of this document.

The present patent grants to its owner and to the legal representatives of its owner, for a term which expires twenty years from the filing date of the application in Canada, the exclusive right, privilege and liberty of making, constructing and using the invention and selling it to others to be used, subject to adjudication before any court of competent jurisdiction, and subject to the payment of maintenance fees.

BREVET CANADIEN	2,524,443	CANADIAN PATENT
Date à laquelle le brevet a été accordé et délivré	2008/06/17	Date on which the patent was granted and issued
Date du dépôt de la demande	2004/05/07	Filing date of the application
Date à laquelle la demande est devenue accessible au public pour consultation	2004/11/25	Date on which the application was made available for public inspection

Commissaire aux brevets / Commissioner of Patents

Canada

3258 (CIPO 91) 03/07

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US 10/555895, PCT/US2004/14368, EU Patent 1620024, Canadian Patent 2524443 & Others

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Canadian Intellectual Property Office
An agency of Industry Canada

CA 2524443 C 2008/06/17

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(12) BREVET CANADIEN
CANADIAN PATENT

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(51) Cl.Int./Int.Cl. *A61B 17/88* (2006.01)

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(54) Titre : TRAITEMENT DU MAL DE DOS PAR LE RETABLISSEMENT DE L'ECHANGE D'ELEMENTS NUTRITIFS & DE DECHETS

(54) Title: DEVICE FOR TREATING BACK PAIN BY RE-ESTABLISHING THE EXCHANGE OF NUTRIENT & WASTE

(57) Abrégé/Abstract:
The intervertebral disc is avascular. With aging, endplates become occluded by calcified layers, and diffusion of nutrients and oxygen into the disc diminishes. The disc degenerates, and pain ensues. Conduits are delivered and deployed into the intervertebral disc to reestablish the exchange of nutrients and waste between the disc and bodily circulation to stop or reverse disc degeneration and relieve pain. The intervertebral disc installed with semi-permeable conduits may be used as an immuno-isolated capsule to encapsulate donor cells capable of biosynthesizing therapeutic molecules. The semi-permeable conduits establish the exchange of nutrients and therapeutic molecules between disc and bodily circulation to treat a disease without using immunosuppressive drugs.

CA 02524443 2007-10-02

What is claimed is:

1. A deployment device for deploying a porous conduit into an intervertebral disc, the deployment device comprising:

   a sheath,

   a porous conduit sized and configured to fit at least partially within said sheath, and

   a plunger to deploy said porous conduit.

2. The deployment device of claim 1, wherein said sheath has a beveled tip.

3. The deployment device of claim 1 or 2, further comprising a needle located at least partially within said sheath.

4. The deployment device of claim 3, wherein said porous conduit is located at least partially within said needle.

5. The deployment device of claim 3, wherein said porous conduit is located at least partially around said needle.

6. The deployment device of any one of claims 1 to 5, further comprising a coating on said sheath.

7. The deployment device of claim 6, wherein the coating is chosen from the group of coatings consisting of lubricant, tissue sealant, analgesic, antibiotic, radiopaque, magnetic and echogenic agents.

8. The deployment device of any one of claims 1 to 7, wherein said porous conduit is a tube formed of a biocompatible material.

9. The deployment device of any one of claims 1 to 7, wherein said porous conduit is a multi-filament formed of a biocompatible material.

10. The deployment device of any one of claims 1 to 7, wherein said porous conduit is a sponge formed of a biocompatible material.

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11. The deployment device of any one of claims 1 to 7, wherein said porous conduit has a plurality of protrusions extending therefrom.

12. The deployment device of claim 11, wherein said protrusions are chosen from the group consisting of flanges, knots and rings.

13. The deployment device of any one of claims 1 to 7, wherein said porous conduit is formed of a multi-filament portion and a mono-filament portion.

14. The deployment device of any one of claims 1 to 7, wherein said porous conduit is formed of a biodegradable material.

15. The deployment device of any one of claims 1 to 7, wherein said porous conduit is formed of a non-degradable material.

16. The deployment device of any one of claims 1 to 7, wherein said porous conduit is formed of a non-degradable material chosen from the group of materials consisting of polytetrafluoroethylene, polypropylene, polyethylene, polyamide, polyester, polyurethane, silicon, poly-ether-ether-ketone, acetal resin, polysulfone, polycarbonate, silk, cotton, linen, fiberglass, nickel-titanium alloy and stainless steel.

17. The deployment device of any one of claims 1 to 7, wherein said porous conduit is formed of a degradable material chosen from the group of materials consisting of polylactate, polyglycolic, poly-lactide-co-glycolide, polycaprolactone, trimethylene carbonate, silk, catgut, collagen, poly-p-dioxanone, polydioxanone, polyanhydride, trimethylene carbonate, poly-beta-hydroxybutyrate, polyhydroxyvalerate, poly-gama-ethyl-glutamate, poly-DTH-iminocarbonate, poly-bisphenol-A-iminocarbonate, poly-ortho-ester, polycyanoacrylate and polyphosphazene.

18. The deployment device of any one of claims 1 to 17, wherein said porous conduit has a coating chosen from the group of coatings consisting of antibiotic, anti-occlusive coating, lubricant, growth factor, nutrient, sulfate, mineral, buffering agent, sodium carbonate,

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sodium bicarbonate, alkaline, collagen, hydroxyapatite, analgesic, sealant, humectant, hyaluronate, proteoglycan, chondroitin sulfate, keratan sulfate, glycosamino-glycans, heparin, starch, stiffening agent, radiopaque coating, echogenic coating, gene, cells and stem cells.

19. The deployment device of any one of claims 1 to 18, wherein said porous conduit has a pore size of 200 microns to 10 nanometers.

20. The deployment device of any one of claims 1 to 18, wherein said porous conduit has channels therethrough, said channels having a diameter of 200 microns to 10 nanometers.

21. The deployment device of any one of claims 1 to 20, further comprising a tube located around a central portion of said porous conduit.

22. The deployment device of claim 21, wherein said tube is formed of a material chosen from the group of materials consisting of polytetrafluoroethylene, polypropylene, polyethylene, polyamide, polyester, polyurethane, silicon, poly-ether-ether-ketone, acetal resin, polysulfone, polycarbonate and polyethylene glycol.

23. The deployment device of any one of claims 1 to 17, wherein at least a portion of said porous conduit is coated with fibrous tissue inhibitor.

24. A deployment device for deploying a porous conduit into an intervertebral disc, the deployment device comprising:

a tubular sheath,

a first elastic needle having a straightened position and a curved position, said straightened position being elastically straightened within said tubular sheath, and said curved position being elastically curved and located at least partially outside said tubular sheath,

an actuator to move said first elastic needle between said straightened position and said curved position, and

a porous conduit sized and configured to fit at least partially within said tubular sheath.

25. The deployment device of claim 24, wherein said first elastic needle has a beveled tip.

26. The deployment device of claim 25, wherein a point of said beveled tip is located on a concave side of said first elastic needle, when said first elastic needle is in said curved position.

27. The deployment device of any one of claims 24 to 26, wherein said tubular sheath has a sharp tip.

28. The deployment device of claim 27, wherein said sharp tip is oriented on a convex side of said first elastic needle, when said first elastic needle is in said curved position.

29. The deployment device of any one of claims 24 to 28, wherein said tubular sheath and said first elastic needle have non-round cross sections.

30. The deployment device of claim 29, wherein said tubular sheath and said first elastic needle have similar cross-sectional shapes..

31. The deployment device of any one of claims 24 to 28, wherein said tubular sheath and said first elastic needle have oval cross sections.

32. The deployment device of any one of claims 24 to 31, further comprising a second elastic needle, said second elastic needle located at least partially around said first elastic needle.

33. The deployment device of claim 32, wherein said first and second elastic needles have similar curvatures and said curvatures are oriented in similar directions.

34. The deployment device of any one of claims 24 to 33, further comprising an opening extending through a wall of said tubular sheath proximate a distal end thereof.

35. The deployment device of any one of claims 24 to 33, wherein said tubular sheath has

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a ramp located therein.

36. The deployment device of claim 35, wherein said ramp is located proximate a distal end of said tubular sheath and located proximate a convex side of said first elastic needle.

37. The deployment device of any one of claims 24 to 36, wherein said first elastic needle is formed of nickel-titanium alloy.

38. The deployment device of any one of claims 24 to 37, wherein said first elastic needle has a non-uniform cross-section.

39. The deployment device of claim 38, wherein said first elastic needle has a distal end and a proximal end, said distal end being smaller than said proximal end.

40. The deployment device of any one of claims 24 to 39, further comprising a plunger for deploying said porous conduit.

41. The deployment device of claim 24, further comprising a coating on said tubular sheath.

42. The deployment device of claim 41, wherein the coating is chosen from the group of coatings consisting of lubricant, tissue sealant, analgesic, antibiotic, radiopaque, magnetic and echogenic agents.

43. The deployment device of any one of claims 24 to 42, further comprising a coating on said first elastic needle.

44. The deployment device of claim 43, wherein the coating is chosen from the group of coatings consisting of lubricant, tissue sealant, analgesic, antibiotic, radiopaque, magnetic and echogenic agents.

45. The deployment device of any one of claims 24 to 44, wherein said porous conduit is a tube formed of a biocompatible material.

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46. The deployment device of any one of claims 24 to 44, wherein said porous conduit is a multi-filament formed of a biocompatible material.

47. The deployment device of any one of claims 24 to 44, wherein said porous conduit is a sponge formed of a biocompatible material.

48. The deployment device of any one of claims 24 to 44, wherein said porous conduit has a plurality of protrusions extending therefrom.

49. The deployment device of any one of claims 24 to 44, wherein said porous conduit is formed of a multi-filament portion and a mono-filament portion.

50. The deployment device of any one of claims 24 to 49, wherein said porous conduit is located within said first elastic needle.

51. The deployment device of any one of claims 24 to 49, wherein said porous conduit is located at least partially around said first elastic needle.

52. The deployment device of any one of claims 24 to 51, wherein said porous conduit has a coating chosen from the group of coatings consisting of antibiotic, anti-occlusive coating, lubricant, growth factor, nutrient, sulfate, mineral, buffering agent, sodium carbonate, sodium bicarbonate, alkaline, collagen, hydroxyapatite, analgesic, sealant, humectant, hyaluronate, proteoglycan, chondroitin sulfate, keratan sulfate, glycosaminoglycans, heparin, starch, stiffening agent, radiopaque coating, echogenic coating, gene, cells and stem cells.

53. The deployment device of any one of claims 24 to 52, wherein said porous conduit has a pore size of 200 microns to 10 nanometers.

54. The deployment device of any one of claims 24 to 52, wherein said porous conduit has channels therethrough, said channels having a diameter of 200 microns to 10 nanometers.

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55. The deployment device of any one of claims 24 to 54, further comprising a tube located around a central portion of said porous conduit.

56. A porous conduit for re-establishing exchange of nutrients and waste between an intervertebral disc and bodily circulation, the porous conduit comprising:

an elongated member formed of a biocompatible material, said elongated member having a first portion adapted for insertion within a patient's nucleus pulposus within the intervertebral disc.

57. The porous conduit of claim 56, wherein said elongated member has a second portion adapted to extend through an endplate and into a vertebra.

58. The porous conduit of claim 56, wherein said elongated member has a second portion and a central portion, wherein said central portion is adapted to extend through a periphery of the intervertebral disc and said second portion is adapted to extend outside the intervertebral disc.

59. The porous conduit of claim 56, wherein said elongated member has a second portion which is adapted to extend to an outer annulus of the intervertebral disc.

60. The porous conduit of any one of claims 56 to 59, wherein said porous conduit is a tube formed of a biocompatible material.

61. The porous conduit of any one of claims 56 to 59, wherein said porous conduit is a multi-filament formed of a biocompatible material.

62. The porous conduit of claim 61, wherein said multi-filament is braided.

63. The porous conduit of any one of claims 56 to 59, wherein said porous conduit is a sponge formed of a biocompatible material.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,895	11/04/2005	Jeffrey Yeung	325-003US	2268

23429 7590 10/18/2010
GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK, CA 94560

EXAMINER
EISENBERG, REBECCA E

ART UNIT	PAPER NUMBER
3763	

MAIL DATE	DELIVERY MODE
10/18/2010	PAPER

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

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

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GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

In re Application of	:
YEUNG, JEFFREY et al	: DECISION ON REQUEST TO
Application No. 10/555,895	: PARTICIPATE IN PATENT
Filed: Nov. 4, 2005	: PROSECUTION HIGHWAY
Attorney Docket No. 325-003US	: PILOT PROGRAM AND PETITION
For: TREATING BACK PAIN BY RE-	: TO MAKE SPECIAL UNDER
ESTABLISHING THE EXCHAGE OF	: 37 CFR 1.102(d)
NUTRIENT & WASTE	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 7, 2010 to make the above-identified application special.

The request and petition are Dismissed.

A grantable request to participate in the PPH program and petition to make special require:
(1) The U.S. application must disclose an eligible relationship to one or more PCT applications filed in the JPO, EPO, KIPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

With regard to Item #3, the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the PCT application. The Claims Correspondence Table in the petition is deficient. Current US application contains claims 1-98 which are not sufficiently corresponding to allowable claims 1-55 and 75-91 PCT search opinion. It must be noted the claims 56-74 contain different scopes from the original allowed claims 1-55 and 75-91 of PCT search opinion. In particular, the search opinion indicates that claims 56-74 contains negative remarks. Thus, Item #3 is not satisfied and for this reason the petition can not be granted. Those extra claims 56-74 must be cancelled.

Applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn. Response must be filed via EFS-Web. Currently, the application is undergoing entry of RCE papers and amendment processing.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

Petition is **dismissed**.

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

PTO/SB/20PCT-EP (05-10)
Approved for use through 01/31/2012. OMB 0651-0058
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REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE EUROPEAN PATENT OFFICE (EPO) AND THE USPTO

Application No:	10/555,895	Filing date:	Nov 4, 2005
First Named Inventor:	Jeffrey Yeung		
Title of the Invention:	Treating Back Pain by Re-Establishing the Exchange of Nutrient & Waste		

THIS REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM ALONG WITH THE REQUIRED DOCUMENTS MUST BE SUBMITTED VIA EFS-WEB. INFORMATION REGARDING EFS-WEB IS AVAILABLE AT HTTP://WWW.USPTO.GOV/EBC/EFS_HELP.HTML

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PCT-PPH PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PCT-PPH PROGRAM.

The above-identified application is (1) a national stage entry of the corresponding PCT application, or (2) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (3) a national application that claims domestic/ foreign priority to the corresponding PCT application, or (4) a national application which forms the basis for the priority claim in the corresponding PCT application, or (5) a continuing application of a U.S. application that satisfies one of (1) to (4) above, or (6) a U.S. application that claims domestic benefit to a U.S. provisional application which forms the basis for the priority claim in the corresponding PCT application.

The corresponding PCT application number(s) is/are: PCT/US2004/14368

The international date of the corresponding PCT application(s) is/are: May 7, 2004

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above–identified corresponding PCT application(s)**

☐ Is attached

☑ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☑ Is attached.

☐ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). 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 2 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.

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REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE EPO AND THE USPTO

(continued)

Application No.:	10/555,895
First Named Inventor:	Jeffrey Yeung

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

☐ Is attached

☑ Has already been filed in the above-identified U.S. application on Oct 7, 2010

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

☐ Are attached.

☑ Have already been filed in the above-identified U.S. application on Oct 7, 2010

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1-55, 75-91	1-55, 75-91	The US claims are the same as the PCT claims
92-98	new	These claims were added and approved by the EPO

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /Carol D. Titus/	Date November 18, 2010
Name (Print/Typed) Carol D. Titus	Registration Number 38436

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.

IN THE U.S. PATENT AND TRADEMARK OFFICE

Appn. No.:	10/555,895
Applicant:	Jeffrey E. Yeung et al.
Filing Date:	November 4, 2005
Title:	TREATING BACK PAIN BY RE-ESTABLISHING THE EXCHANGE OF NUTRIENT & WASTE
Docket No.:	325-003US

Submitted: November 18, 2010

Renewed Request for Participation in the PCT-PPH Pilot Program (EPO-US)

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

Sir:

Applicant hereby renews the Request for Participation in the PCT-PPH Pilot Program. This Renewed Request is in response to the Decision mailed October 18, 2010. The Decision indicated that claims 56-74 had negative remarks and needed to be cancelled for participation in the PPH Pilot Program.

Enclosed herewith is a Preliminary Amendment cancelling claims 56-74 and a revised version of Request for Participate (PTO/SB/20PCT-EP) showing the revised correspondence table.

Very respectfully submitted,

/Carol D. Titus/

Carol D. Titus
GSS Law Group
3900 Newpark Mall Rd
Third Floor, Suite 317
Newark, CA 94560

Reg. No. 38,436
Phone (510) 742-7417
Fax (510) 742-7419

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,895	11/04/2005	Jeffrey Yeung	325-003US	2268

23429 7590 11/19/2010
GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK, CA 94560

EXAMINER
EISENBERG, REBECCA E

ART UNIT	PAPER NUMBER
3763	

MAIL DATE	DELIVERY MODE
11/19/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

In re Application of	:
YEUNG, JEFFREY et al	: DECISION ON REQUEST TO
Application No. 10/555,895	: PARTICIPATE IN PATENT
Filed: Nov. 4, 2005	: PROSECUTION HIGHWAY
Attorney Docket No. 325-003US	: PILOT PROGRAM AND PETITION
For: TREATING BACK PAIN BY RE-	: TO MAKE SPECIAL UNDER
ESTABLISHING THE EXCHAGE OF	: 37 CFR 1.102(d)
NUTRIENT & WASTE	

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed Nov. 18, 2010 to make the above-identified application special.

The request and petition are Granted.

A grantable request to participate in the PPH program and petition to make special require:
(1) The U.S. application must disclose an eligible relationship to one or more PCT applications filed in the JPO, EPO, KIPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the petition being properly submitted, the request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

All other inquiries concerning the examination or status of the application should be directed to Nick Lucchesi, the SPE of Art Unit 3763, and (571)272-4977 for Class 604/93.010 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

This application will be forwarded and docketed to an examiner for action on the merits commensurate with this decision.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

The petition is **granted.**

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 31 2011
OFFICE OF PETITIONS

CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLLS MI 48326-1581

In re Application of	:	
Ulrich Luders et al.	:	
Application No. 10/555,902	:	ON PETITION
Filed: October 11, 2007	:	
Attorney Docket No. AP-10685	:	

This is a decision on the petition filed January 6, 2011 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 non-final Office action mailed October 26, 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 27, 2010. A Notice of Abandonment was mailed on June 15, 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 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 3663 for appropriate action by the Examiner in the normal course of business on the reply received January 6, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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JAN 11 2011
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Patent No. 7,765,924	:	DECISION ON REQUEST
Suda	:	FOR
Issue Date: August 3, 2010	:	RECONSIDERATION OF
Application No. 10/556,072	:	PATENT TERM ADJUSTMENT
Filed: December 12, 2005	:	and
Atty Docket No. 125867	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 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 one thousand, forty-four (1,044) days.

The petition under 37 CFR 1.183 is **GRANTED**.

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 seven hundred and sixty-four **(764)** days.

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

At the outset, it is noted that neither the applicants, or the Office, used the completion date of Monday May 1, 2006, in calculating the period of adjustment under 37 CFR 1.703(a)(1). As stated in 37 CFR 1.703(a)(1), the period of adjustment under § 1.702(a) is the number of days 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 under 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. It is noted that the requirements of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) were received on December 12, 2005, however the application could not have been said to have fulfilled, or completed, all of the 35 U.S.C. 371 requirements until April 30, 2006. More specifically, where a request for early processing is not made pursuant to 35 U.S.C. 371(f), the date of completion of all 35 U.S.C. 371 requirements cannot be before the expiration of thirty months from the earliest priority date. See 37 U.S.C. 371(f). It is noted that applicants did not request early processing for this application pursuant to 35 U.S.C. 371(f). The earliest priority date for this application is October 31, 2003, and the date that is thirty months therefrom is Sunday, April 30, 2006. It is further noted, however, that where the date of commencement falls on a weekend, the commencement date, which, in this case, is also the date of completion of the requirements under 35 U.S.C. 371 requirements, is the next weekday. Accordingly, Monday May 1, 2006, is the date the application fulfilled all of the requirements under 35 U.S.C. 371 and is the date that should be used to calculate the examination delay under 37 CFR 1.703(a).[1]

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment under 37 CFR 1.702(a) is 514 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, July 2, 2007, and ending on the date of mailing of the restriction/election requirement, November 26, 2008. Accordingly, the period of adjustment of 301 days will be removed and a period of adjustment of 514 will be entered.

Further, the "B" delay period is 250 days, not 391 days as patentee asserts. In calculating the "B" delay period, patentees used the date of December 12, 2005, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. 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), not the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. See 1.702(b). The priority date of this application is October 31, 2003. The date that is 30 months from

[1] Applicants are advised that a corrected "Notice of Acceptance of Application under 35 U.S.C.371 and 37 CFR 1.495" is not forthcoming. The instant decision serves as official notice that the date of completion of all 35 U.S.C. 371 requirements is June 19, 2006.

the priority date is Sunday, April 30, 2006. As the national stage cannot commence on a weekend or federal holiday, the date the national stage commenced in this application is Monday, May 1, 2006. Thus, "B" delay is 514 days, counting the number of days beginning on May 2, 2009, and ending on January 6, 2010, the day before the date the Request for Continued Examination was filed. See 1.703(b).

Accordingly, the patent term adjustment is 764 days (514 days of A delay + 250 days of B delay - 0 days of overlap - 0 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.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and sixty-four (764) days.**

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,765,924 B2

DATED : Aug. 3, 2010

INVENTOR(S) : Suda

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 764 days--

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Patent No. 7,765,924	:	DECISION ON REQUEST
Suda	:	FOR
Issue Date: August 3, 2010	:	RECONSIDERATION OF
Application No. 10/556,072	:	PATENT TERM ADJUSTMENT
Filed: December 12, 2005	:	and
Atty Docket No. **125867**	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 21, 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, forty-four (1,044) 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 forty-three (1,043) days is **GRANTED to the extent indicated herein**[1].

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 13, 2008, and ends on January 6, 2010 the day before the RCE was filed, and is 390 (not 391) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1,043 days, not 1,044 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

[1] The request for early processing under 35 U.S.C. 371(f) filed December 12, 2005, is noted. As early processing under 35 USC 371(f) was requested and all requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were received on, or before, December 12, 2005, the date of completion of all 35 U.S.C. 371 requirements is December 12, 2005, and the date of commencement of the national stage is December 12, 2005.

applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

The Office is in receipt of $200.00 for the petition fee under 37 CFR 1.18(e). No additional fees are due.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand, forty-three (1,043) days.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,765,924 B2

DATED : Aug. 3, 2010

INVENTOR(S) : Suda

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 1043 days--

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Sunstein Kann Murphy &
Timbers LLP
125 SUMMER STREET
BOSTON MA 02110-1618

In re Patent No. of Ashwell et al.	:	DECISION ON REQUEST
Patent No. 7,902,192	:	FOR RECONSIDERATION OF
Issue Date: March 8, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/556,161	:	and
Filed: April 19, 2007	:	NOTICE OF INTENT TO ISSUE
Attny Docket No. AQ0118US:3206/110	:	CERTIFICATE OF CORRECTION

This is a decision on the "Application for Patent Term Adjustment Determination Under 37 C.F.R. 1.705," filed April 21, 2011. Patentees request that the patent term adjustment indicated in the patent be corrected from nine hundred forty-two (942) days to nine hundred sixty-nine (969) 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 nine hundred sixty-nine (969) days is **granted to the extent indicated herein.**

On March 8, 2011, the above-identified application matured into U.S. Patent No. 7,902,192. The instant request for reconsideration filed April 21, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 942 days. Patentees dispute a reduction, pursuant to 37 CFR 1.704(c)(10), of twenty-seven (27) days due to a corrected drawing being filed on December 1, 2010. It is noted a Notice of Allowance was mailed on September 7, 2010.

A review of the PALM calculations for this application reveals that the initial determination of PTA was reduced by 27 days for the submission of a corrected drawing on December 1, 2010 after the mailing of the notice of allowance on September 7, 2010. See 37 CFR 1.704(c)(10). Patentees contend that applicants did not engage in behavior that reasonably would be considered as

failing in efforts to conclude prosecution of the application by filing the corrected drawing on December 1, 2010 because the amendment was expressly requested by the Office in a Notice to File Corrected Application Papers on October 13, 2010.

37 CFR 1.704(c)(10) provides that:

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

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the

examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

Patentees' attention is drawn to the fact that drawings **are** papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application. There is no "expressly requested by the examiner" exemption in 37 CFR 1.704(c)(10).

The reduction has been considered and the reduction is found to be warranted. It is undisputed that a corrected drawing was filed on December 1, 2010, after the mailing of the September 7, 2010 Notice of Allowance. This was properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10). It is noted that no communication was mailed in response to the corrected drawing. Therefore, pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 75 days, counting the number of days in the period beginning on December 1, 2010, the date the drawing was filed, and ending on March 8, 2011, the date the patent issued, minus the 23 days already assessed for the Rule 312 amendment filed on December 1, 2010. Accordingly, the period of reduction of 27 days will be removed and a period of 75 days will be entered in connection with the filing of a corrected drawing on December 1, 2010.

In view thereof, 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 eight hundred ninety-four (894) days, which is 503 days of A delay plus 843 days of maximum B delay minus 354 overlapping days, minus 98 (23 + 75) 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.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred ninety-four (894)** days.

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 DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,902,192 B2

DATED : **March 8, 2011** **DRAFT**

INVENTOR(S) : Ashwell 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 942 days

Delete the phrase "by 942 days" and insert – by 894 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sunstein Kann Murphy &
Timbers LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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In re Patent No. of Ashwell et al.	:	DECISION ON REQUEST
Patent No. 7,902,192	:	FOR RECONSIDERATION OF
Issue Date: March 8, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/556,161	:	and
Filed: April 19, 2007	:	NOTICE OF INTENT TO ISSUE
Attny Docket No. AQ0118US:3206/110	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition under 37 C.F.R. 1.705(d), filed June 17, 2011. Patentees renew their request that the patent term adjustment indicated in the patent be corrected from nine hundred forty-two (942) days to nine hundred sixty-nine (969) days.

The petition under 37 CFR 1.705(d)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 nine hundred sixty-nine (969) days is **granted**.

The petition under 37 CFR 1.181, filed May 23, 2011, for supervisory review is **dismissed as moot**.

Patentees dispute the period of reduction of 75 days entered in connection with the filing of a corrected drawing on December 1, 2010, after the mailing of a notice of allowance on September 7, 2010. Patentees assert a reduction of 23 days should have been entered for the December 1, 2010 submission of a Rule 312 amendment, which included a drawing.

Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 23 days, counting the number of days in the period beginning on December 1, 2010, the date the Rule 312 amendment, which included a drawing, was filed, and ending on December 23, 2010, the date the Office mailed correspondence in response to the filing. Accordingly, the period of reduction of

75 days will be removed and a period of reduction of only 23 days in connection with the December 1, 2010 submission will be retained.

In view thereof, 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 nine hundred sixty-nine (969) days, which is 503 days of A delay plus 843 days of maximum B delay minus 354 overlapping days, minus 23 days of Applicant delay.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred sixty-nine (969)** days.

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 DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,902,192 B2

DATED : **March 8, 2011** **DRAFT**

INVENTOR(S) : Ashwell 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 942 days

Delete the phrase "by 942 days" and insert – by 969 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.g

Date Mailed: November 30, 2010
Patent No. ·: 7,833,908 B2
Ser. No. :10/556377
Issued :November 30, 2010
Inventor(s) :Jean Gun Park, et al.
Title SLURRY COMPOSITION FOR CHEMICAL-MECHANICAL POLISHING CAPABLE OF COMPENSATING NANOTOPOGRAPHY EFFECT AND METHOD FOR PLANARIZING SURFACE FOF SEMICONDUCTOR DEVICE USING THE SAME

Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

E. Rico Hernandez
Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 1050
McLean, VA 22102-4856

MD/mt

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

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JAN 04 2011

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Patent No. 7,833,908	:	
Issue Date: November 16, 2010	:	
Application No. 10/556,377	:	ON PETITION
Filed: December 6, 2006	:	
Attorney Docket No. 061063-0319588	:	

This is a decision on the petition filed December 7, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLLS MI 48326-1581

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MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Schwarz et al.	:	
Application No. 10/556,575	:	DECISION ON PETITION
Filed: December 4, 2006	:	
Attorney Docket No. AP 10692	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 7, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 8, 2010. A Notice of Abandonment was mailed November 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 an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3664 for appropriate action by the Examiner in the normal course of business on the reply received.

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

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Gabor Szarvas et al.	:	
Application No. 10/556,624	:	DECISION ON PETITION
Filed: October 02, 2006	:	
Attorney Docket No. **PD050019**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 non-final Office action mailed, December 02, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 03, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of December 02, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2872 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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MAR 09 2011
OFFICE OF PETITIONS

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

In re Patent No. 7,589,189	:	
Issue Date: September 15, 2009	:	
Application No. 10/556,711	:	ON PETITION
Filed: November 13, 2006	:	
Attorney Docket No. 051009/303044	:	

This is a decision in response to the petition under 37 CFR 1.182, filed January 25, 2011, to correct the name of a joint inventor' by way of a Certificate of Correction. The balance of the requisite $400 petition fee is being charged to counsel's deposit account as authorized.

The petition is **GRANTED**.

USPTO records will be corrected as follows:

> The inventor's name will be changed from "KANAZAWA ICHIRO"
> to "ICHIRO KANAZAWA"

This patent is being referred to Certificates of Correction Branch for issuance of the requested Certificate of Correction. A corrected Filing Receipt is enclosed.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Any questions relating to the issuance of the Certificate of Correction should be directed to Certificates of Correction Branch at (703) 756-1814.

Sherry D. Brinkley
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
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
10/556,711	11/13/2006	1635	1330	051009/303044	17	3

CONFIRMATION NO. 5017

CORRECTED FILING RECEIPT

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

OC000000046808547

Date Mailed: 03/28/2011

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)

Ichiro Kanazawa, Tokyo, JAPAN;
Liu Wanzhao, Tokyo, JAPAN;
Yu-Lai Wang, Tokyo, JAPAN;
Keiji Wada, Tokyo, JAPAN;
Jun Goto, Tokyo, JAPAN;
Miho Murata, Tokyo, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number 00826

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/JP04/06360 04/30/2004

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.)
JAPAN 2003-136477 05/14/2003

If Required, Foreign Filing License Granted: 08/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/556,711**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INHIBITION OF THE EXPRESSION OF HUNTINGTIN GENE

Preliminary Class

536

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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JUL 28 2011
OFFICE OF PETITIONS

OLIVER INTELLECTUAL PROPERTY LLC
P.O. BOX 1670
COTUIT MA 02635

In re Application of	:	
Roger Thiel et al.	:	
Application No. 10/556,713	:	DECISION ON PETITION
Filed: November 09, 2005	:	
Attorney Docket No. **870-003-198**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 27, 2010. Accordingly, the date of abandonment of this application is March 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been unintentionally delayed.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWN RUDNICK LLP
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Application of	:	
CAPP, et al	:	
Application No. 10/556,764	:	DECISION ON PETITION
Filed: October 17, 2006	:	
Attorney Docket No. 028922-0009	:	

This is a decision on the petition under 37 CFR 1.182, filed, October 17, 2011, to correct the name of inventor "William F. Capp" to – F. William Capp--.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's correct name. A corrected Filing Receipt, which reflects the inventor's name correction, accompanies this decision on petition.

The petition fee of $400 accompanied the petition filed under 37 CFR 1.182.

Any questions concerning this matter may be directed to Diane C. Goodwyn at (571) 272-6735.

Any questions should be directed to the Office of Data Management at (571) 272-4000.

This application is being referred to the Office of Data Management for further processing.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/556,764	10/17/2006	2858	1070	028922-0009	19	4

CONFIRMATION NO. 2165

CORRECTED FILING RECEIPT

21710
BROWN RUDNICK LLP
ONE FINANCIAL CENTER
BOSTON, MA 02111

OC000000051182101

Date Mailed: 11/29/2011

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)

F. William Capp, Boston, MA;
William J. Driscoll, Westford, MA;

Assignment For Published Patent Application

Beacon Power Corporation, Wilmington, MA

Power of Attorney: The patent practitioners associated with Customer Number 21710

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/16668 05/27/2004
which claims benefit of 60/473,749 05/28/2003

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: 02/01/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/556,764**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

POWER CONVERTER FOR A SOLAR PANEL

Preliminary Class

320

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.

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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).

SelectUSA

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage, facilitate, and accelerate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

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DEC 06 2011
OFFICE OF PETITIONS

NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE MA 02139

In re Patent No. 8,012,681	: DECISION ON APPLICATION FOR
Issued: September 6, 2011	: PATENT TERM ADJUSTMENT and
Application No. 10/556,765	: NOTICE OF INTENT TO ISSUE
Filed: January 22, 2008	: CERTIFICATE OF CORRECTION
Dkt. No.: PAT052511-US-PCT	:

This is a decision on the petition filed October 6, 2011 requesting that the patent term adjustment be increased from 996 days to 824 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

The patent is entitled to an overall adjustment of 862 days.

The above-identified application issued as U.S. Pat. No. 8,012,681 on October 6, 2011. The patent issued with a patent term adjustment of 996 days. The instant request for reconsideration of patent term adjustment was timely filed October 6, 2011. Patentees assert that the correct patent term adjustment is 824 days.

Review of the record reveals that the application is entitled to an overall patent term adjustment of 862 days as follows: 190 days pursuant to 37 CFR 1.703(a)(1) (from March 23, 2009 to September 28, 2009) plus 1027 days pursuant to 37 CFR 1.703(b) (from November 14, 2008 to September 6, 2011) less 30 days of applicant delay under 37 CFR 1.704(b) (from April 13, 2011 to May 13, 2011) less 135 days under 37 CFR 1.704(c)(3)(i) (from November 21, 2007 to April 8, 2008) less 190 overlapping days.

In view thereof, the patent is entitled to an overall adjustment of 862 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 required $200.00 fee set forth in 37 CFR 1.18(e) has been charged to the authorized deposit account. 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 862 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 Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,012,681

DATED : September 6, 2011 **DRAFT**

INVENTOR(S) : Zimmerman, 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 996 days

Delete the phrase "by 996 days" and insert -- by 862 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

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

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,790,900
Issued: September 7, 2010
Application No. 10/556,777
Filed: November 15, 2005
Attorney Docket No. 023174-0145

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

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT UNDER 37 C.F.R. §1.705(d)," filed November 5, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 919 to 1172 days.

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

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 one hundred seventy-two **(1172)** days.

On December 3, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 427 days. On September 7, 2010, the above-identified application matured into U.S. Patent No. 7,790,900, with a revised PTA of nine hundred nineteen (919) days. The instant application for PTA, filed November 5 2010, was timely filed within two months of the patent grant. Patentees maintain that the patent should have issued with a patent term adjustment of 1172 days.

Applicant contends however that the patent issuing from this application is entitled to 253 more days of patent term adjustment based on Office delay. Applicants submit evidence to show that the holding of abandonment for failure to timely respond to the October 10, 2007 Restriction Requirement was withdrawn based on their showing that a response had been timely filed. In support of a showing that the response was received November 9, 2007, applicants submitted a copy of their date-stamped postcard.

A review of the application history reveals that no response to the Restriction Requirement mailed October 10, 2007 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed June 27, 2008. In response, on July 17, 2008 applicants filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See 37 CFR § 1.704(c)(4). Moreover, by decision mailed September 19, 2008, the petition was granted on the basis that applicants had shown that a proper response was filed on November 9, 2007 with a USPTO date stamped post card receipt.

Thus, four months from the filing of the response, March 9, 2008 to the mailing of the non-Final Office Action, on March 30, 2009 is 386 days. The period of adjustment for Office delay pursuant to 37 CFR § 1.703(a)(2) days will be removed and a period of 386 days will be entered.

In view thereof, the patent term adjustment indicated in the patent should have been one thousand one hundred seventy-two **(1172)** days.

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 seventy-two (1172) days**.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,790,900 B2

DATED : September 7, 2010

INVENTOR(S) : Erick M. Carreira

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 (919) days

Delete the phrase "by 919 days" and insert – by 1172 days--

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

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Erick M. Carreira	:	
Application No. 10/556,777	:	DECISION ON REQUEST FOR REFUND
Filed: November 15, 2005	:	
Attorney Docket No. 023174-0145	:	

This is a decision on the Request For Refund filed September 23, 2011.

The request is **DISMISSED**.

Applicants request a refund of $200 paid on November 5, 2010, for the filing of a Request for Reconsideration of Patent Term Adjustment.

The patent issued on September 7, 2010, and the petition under 37 CFR 1.705(d) was filed on November 5, 2010, which required payment of the $200.00 petition fee. Applicant did not use the recalculation form PTO/SB/131 which would have exempted the fee. The petition was treated as a petition under 37 CFR 1.705(d) which requires a $200.00 fee.

In view of the above, the request for refund is dismissed.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction for Appl. No.: 10556839 Patent No.: 7849857

CofC mailroom date: 5/26/11

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: Duplicate references

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Justine Yu/ 3771

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

CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLLS MI 48326-1581

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of
Haupt et al.
Application No. 10/556,925
Filed: April 27, 2007
Attorney Docket No. AP 10691

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 26, 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 timely obtained. Accordingly, the application became abandoned on November 27, 2009. A Notice of Abandonment was mailed March 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 an Amendment, (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) 272-6059.

This application is being referred to Technology Center AU 3657 for appropriate action by the Examiner in the normal course of business on the reply received August 11, 2011

/A. Kelley-Collier/
Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,959	01/31/2007	Bruno Covelli	Q117059	5426

23373 7590 10/29/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
POURBOHLOUL, SARIRA CAMILLA

ART UNIT	PAPER NUMBER
1765	

NOTIFICATION DATE	DELIVERY MODE
10/29/2010	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):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Applicant: Covelli et al.
Appl. No.: 10/556,959
Filing Date: January 31, 2007
Title: BIOREACTOR FOR PRODUCING A TISSUE PROSTHESIS, PARTICULARLY A HEART VALVE
Attorney Docket No.: Q117059
Pub. No.: US 2007/0269789 A1
Pub. Date: November 22, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on October 20, 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

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Adjustment date: 10/29/2010  KKING1
10/21/2010 INTEFSW  00006618 10556959
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Refund Ref:
10/29/2010          0030090190
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Credit Card Refund Total:      $300.00

VISA....: XXXXXXXXXXXX0023
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Hiscock & Barclay, LLP
One Park Place
300 South State Street
Syracuse NY 13202-2078

MAILED
SEP 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Lindstrom, et al.	:	
Application No. 10/556,961	:	NOTICE
Filed: November 15, 2005	:	
Attorney Docket No. 3044371 US01	:	

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,640,014	:	
Issue Date: December 29, 2009	:	
Application No. 10/557,111	:	DECISION ON PETITION
Filed: November 16, 2005	:	
Attorney Docket No. 2565-0293PUS1	:	

This is a decision on the petition under 37 CFR 1.182, filed October 5, 2010, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management at (703) 756-1555.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,618,490
Issued: November 17, 2009
Application No. 10/557,204
Filed: November 17, 2005
Attorney Docket No. 280965USOPCT

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the PETITION UNDER 37 C.F.R. § 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on January 14, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 562 days to 927 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 in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by nine hundred twenty-seven (927) days and is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred twenty-seven (927)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,618,490 B2

DATED : November 17, 2009

INVENTOR(S) : Yasuhiro Nakashima

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 (562) days

Delete the phrase "by 562 days" and insert – by 927 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 2, 2010

TO SPE OF : ART UNIT 3765
SUBJECT : Request for Certificate of Correction for Appl. No /10/557266 patent 7571746

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:

/Gary L. Welch/ 3765

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K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

MAILED
MAR 01 2012
OFFICE OF PETITIONS

In re Application of :
Yoshihisa Takayama et al :
Application No. 10/557,272 : DECISION GRANTING PETITION
Filed: February 24, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3712174-832 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 29, 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 February 8, 2012 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 2184 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 15 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,763,716
Issued: July 27, 2010
Application No. 10/557,351
Filed: November 18, 2005
Attorney Docket No. 64476(46342)

:DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed September 27, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 761 to 863 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On July 27, 2010, the above-identified application matured into U.S. Patent No. 7,763,716 with a revised patent term adjustment of 761 days. On September 27, 2010, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 863 days.

Applicants argue that the 35 U.S.C. 371 completion date for this application is November 18, 2005, rather than November 28, 2005, as indicated in the Patent Term Adjustment History obtained from PAIR and as a result the patent is entitled to 10 days of additional patent term adjustment. Applicants are advised that in this instance, the national stage commencement date is November 28, 2005 (not November 18, 2005, the date used by patentees for this calculation). The priority date of this application is May 28, 2003. As a request under 35 U.S.C. 371(f) for early processing was not expressly made, the completion date occurred at the 30-month commencement date.

Applicants argue further that a period of 92 days should not be charged Applicant for the filing of the Supplemental Application Data Sheet on April 27, 2010 which was filed to change an inventor's address. Patentee argues that "According to Clarification of 37 C.F.R. 1.704(c)(10) (1247 Off. Gaz. Pat. Office 111 ; June 26, 2001), the submission of

a paper to "Change of Address" shall not be considered a failure from Applicants to engage in reasonable efforts to conclude processing or examination of an application (see MPEP 2732). Applicants contend that the Supplemental ADS was merely a paper to "Change of Address". As such, Applicants are entitled to the 92 days of PTA pursuant to 37 C.F.R. 1.704(c)(10)."

Patentee's argument has been considered but is not persuasive. The change of address was filed after the mailing of the Notice of Allowance and thus is subject to 37 C.F.R. § 1.704(c)(10). Patentee is advised that MPEP 2732 applies to changes to correspondence addresses, not changes to inventor information.

As such, the patent term adjustment is 761 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas R. Vigil Law Offices
319 Bluff Court
Barrington IL 60010

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of
Metz-Stavenhagen
Application No. 10/557,388
Filed: November 15, 2006
Atty. Dkt. No.: 95712

: DECISION ON PETITION

This decision is in response to the petition to withdraw the holding of abandonment filed September 6, 2011 and the petition to revive under 37 CFR 1.137(b), filed November 22, 2011.

This application became abandoned March 1, 2011 for failure to timely submit a proper reply in response to the non-final Office action mailed November 30, 2010. Notice of Abandonment was mailed August 17, 2011.

DECISION UNDER 37 CFR 1.181

Petitioner asserts that a proper reply to the non-final Office action, including petition for extension of time, was filed May 27, 2011. The Office received a reply on May 27, 2011. The reply, however, lacked the required three month extension of time. Therefore, the application was properly held abandoned and the holding of abandonment will not be withdrawn.

Accordingly, the petition under 37 CFR 1.181 is hereby **DISMISSED**.

DECISION UNDER 37 CFR 1.137(b)

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, the petition under 37 CFR 1.137(b) is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See, In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats.

1988). Since the $555.00 extension of time fee submitted with the petition on September 6, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to Group Art Unit 3775 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

KENYON & KENYON LLP
RIVERPARK TOWERS, SUITE 600
333 W. SAN CARLOS ST.
SAN JOSE CA 95110

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,666,065	:	DECISION
Michael Langenbach	:	DISMISSING REQUEST FOR
Issue Date: 02/23/2010	:	RECONSIDERATION OF PATENT
Application No. 10/557,392	:	TERM ADJUSTMENT
Filed: 04/28/2006	:	UNDER 37 CFR 1.705
Attorney Docket No.	:	
13560/1	:	

This is a decision on the "SECOND SUPPLEMENTAL REQUEST FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed on June 3, 2010, which is treated as a petition requesting that the Patent Term Adjustment for the above-identified patent be increased by 45 days from 42 days to 87 days.

The request for reconsideration of 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 42 days.

BACKGROUND

On February 23, 2010, the above-identified application matured into U.S. Patent No. 7,666,065. The Patent issued with a revised Patent Term Adjustment of 16 days.

On March 5, 2010, a Request for Reconsideration of Patent Term Adjustment in View of *Wyeth*, was filed. On April 19, 2010, a request for patent term adjustment under 37 CFR 1.705(d), accompanied by the required fee, was filed, asserting that a 45 day period of reduction for applicant delay in connection with

the filing of an amendment or other paper after a notice of allowance had been mailed or given was not warranted and should be removed.

On April 21, 2010, a Decision on Request for Recalculation of Patent Term Adjustment in View of *Wyeth* and Notice of Intent to Issue Certificate of Correction was mailed, stating the patent term adjustment had been determined to be 16 days. On May 14, 2010, a supplemental request under 37 CFR 1.705(d) was filed. On May 18, 2010, a Notice Concerning Improper Calculation of Patent Term Adjustment Based Upon USPTO Improperly Measuring Reduction Period Under 37 CFR 1.704(c)(10) was mailed, stating the previously mailed recalculation decision was vacated, and that the patent term adjustment has been determined to be 42 days.

On June 3, 2010, the instant second supplemental request was filed, again asserting that the 45 day period of reduction for applicant delay for the filing of an amendment or other paper filed after a notice of allowance had been mailed or given was incorrect and should be removed. As no decision in response to the initial request filed on April 19, 2010, was mailed, the subject paper, which requests the same relief as the paper filed on April 19, 2010, is considered timely filed. Accordingly, this decision is also a reply to the request filed on April 19, 2010.

Patentees dispute the 45 day period of applicant delay for the filing of an amendment, on December 15, 2009, after the mailing of a notice of allowance. On January 28, 2010, 45 days after the amendment after the mailing of the notice of allowance was filed, a response to the amendment after the mailing of the notice of allowance was mailed.

Specifically, patentees argue:

> [T]he Rule 312 Amendment was filed at the Examiner's requirement, not at Patentee's instigation.
>
> ....
>
> Normally, of course, a patentee would file a Rule 312 Amendment with the payment of the Issue Fee, and there would be no patent term adjustment penalty involved.

> Patentee did not filed the Rule 312 amendment with payment of the Issue Fee because there was no requirement for such an amendment, and therefore no need to file the amendment at that time.

Patentee's argument has been considered, but is not persuasive.

37 CFR 1.704(c)(10) states 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: 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.

MPEP 2732 states, in pertinent part:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal

> (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that **will be** considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. The phrase "lesser of ...or [f]our months" is to provide a four-month cap for a reduction under 37 CFR 1.704(c)(10) if the Office takes longer than four months to issue an Office action or notice in response to the amendment under 37 CFR 1.312 or other paper.
>
> (emphasis in original)

It is undisputed that an amendment under 37 CFR 1.312 was filed on December 15, 2009, after the mailing of the notice of allowance. It is also undisputed that the Office mailed a response to the amendment under 37 CFR 1.312 on January 28, 2009, 45 days after the filing of the amendment under 37 CFR 1.312.

In this regard, 37 CFR 1.704(c)(10) does not distinguish between papers which are or are not expressly request by the examiner. On December 15, 2009, an amendment was filed after a notice of allowance had been mailed or given. On January 28, 2009, the Office mailed a notice of allowance in response to those papers. Accordingly, a reduction of 45 days is warranted.

Further, patentee's contention that "there would be no patent term adjustment penalty involved," if the Rule 312 amendment was filed with payment of the issue fee, overlooks the fact that a reduction under 37 CFR 1.704(c)(10) will be assessed for the filing of **any** amendment after the mailing of the notice of allowance, regardless of whether the issue fee has been paid, for the period between the date the amendment under 37 CFR 1.312 is filed and the date the Office mails a response to the amendment under 37 CFR 1.312. The mere fact that an amendment is filed after the mailing of the notice of allowance results in a reduction under 37 CFR 1.704(c)(10) beginning on the date the amendment or other papers is filed and ending on the date the Office mails a response to the amendment or other paper filed after the mailing of the notice of allowance.

Accordingly, the reduction of 45 days for applicant delay pursuant to 37 CFR 1.704(c)(10) is proper and will not be removed.

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance 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) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Ashok Tankha
Lipton Weinberger & Husick
36 Greenleigh Drive
Sewell NJ 08080

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael Trachtenberg	:	
Application No. 10/557,450	:	DECISION ON PETITION
Filed: November 18, 2005	:	TO WITHDRAW
Attorney Docket No. CARBOZYME-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 13, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Lipton Weinberger & Husick
36 Greenleigh Drive
Sewell NJ 08080

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael Trachtenberg	:	
Application No. 10/557,450	:	DECISION ON PETITION
Filed: November 18, 2005	:	TO WITHDRAW
Attorney Docket No. CARBOZYME-01	:	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 June 28, 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. 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 Ashok Tankha, attorney of record. Ashok Tanka has 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. Michael Trachtenberg
P.O. Box 6358
Lawrenceville, NJ 08648

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/557,450	11/18/2005	Michael Trachtenberg	CARBOZYME-01

CONFIRMATION NO. 6756

POWER OF ATTORNEY NOTICE

Ashok Tankha
Lipton Weinberger & Husick
36 Greenleigh Drive
Sewell, NJ 08080

OC000000048555581

Date Mailed: 07/01/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Luis Burzio et al	:	
Application No. 10/557,458	:	DECISION ON PETITION
Filed: May 22, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. BIOS-1001US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 6, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from inventor Luis Burzio stating that he 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 Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1635 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SUITE 1200
WASHINGTON DC 20006-1109

MAILED
NOV 23 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
George R. Siber	:	FOR RECONSIDERATION OF
Patent Number: 7,722,886	:	PATENT TERM ADJUSTMENT
Issue Date: 05/25/2010	:	
Application No. 10/557479	:	
Filing or 371(c) Date: 11/21/2005	:	
Attorney Docket Number:	:	
38523.000189	:	

This is a decision on the petition filed on July 23, 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 five hundred twenty-one (521) days. The petition is properly treated under 37 CFR 1.705(d).

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 twenty-one (521) days is **Granted to the Extent Indicated Herein**.

Applicants request an additional 186 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 a national stage commenced, November 22, 2008[1], and ending on the date a patent was issued, May 25, 2010, or 550 days, but excluding overlap of 364 days also beginning on the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), November 22, 2008, and ending on the date of mailing of the decision by the Board of Patent Appeals and Interferences, November 20, 2009.

As to the "B" delay, the period is 84 days, not 550 days. This period begins on the day after the date that is three years after the date on which the a national stage commenced, and ends on the

[1] 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[1]. See PCT Rule 80.5.

issue date of the patent, or 550 days, but not including 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 ending on the date of the last decision by the Board of Patent Appeals and Interferences. See, 35 U.S.C. 154(b)(1)(B)(ii). Thus, the "B" delay period is 84 (550 days – 466 days), not 550 days[2].

A review of Office records also reveals that Applicant failed to note an adjustment of three (3) days pursuant to 37 CFR 1.702(a)(4), in connection the mailing of an Examiner's Answer in response to a Reply Brief, four months and three (3) days after the Reply Brief was filed. This three (3) days adjustment pursuant to 37 CFR 1.702(a)(4) overlaps with the period of adjustment of 466 days pursuant to 37 CFR 1.702(e).

Further as to the period of overlap, the period is three (3) days. As such, the patent term adjustment is 419 days (563 days Office adjustments, less 141 days Applicant delays, less 3 days overlap).

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

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

/DLW/

Derek L. Woods/
Attorney
Office of Petitions

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[2] The petition is granted to the extent that the Office failed to include this 84 days of patent term adjustment.

The Office also 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,722,886 B2

DATED : **May 25, 2010**

INVENTOR(S) : Siber

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 335 days.

Delete the phrase "by 335 days" and insert – by 419 days--

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Biesheuvel	:	
Application No. 10/557,864	:	ON APPLICATION FOR
Filed: October 24, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 097298-0142	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b), filed September 21, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is nine hundred seventy-six (976) days, not four hundred fifty-three (453) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

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

The 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

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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.

petition; however, the Office will mail all future correspondence solely to the address of record.

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

CC: FOLEY & LARDNER LLP
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P.O. BOX 1497
MADISON WI 53701-1497

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Paper No.

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

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JAN 03 2012

OFFICE OF PETITIONS

In re Application of :
Bosch :
Application No. 10/557,870 :
Filed: November 22, 2005 :
Attorney Docket No. TS 8584 USA :
P :
Title: PROCESS TO UPGRADE :
KEROSENES AND A GASOILS FROM :
NAPHTHENIC AND AROMATIC CRUDE :
PETROLEUM SOURCES :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.137(B)

This is a decision on the petition filed December 16, 2011, pursuant to 37 C.F.R. § 1.137(b), 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 submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on March 9, 2010. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on May 10, 2010. A Notice of Abandonment was mailed on November 8, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

Petitioner has submitted the petition fee, an Appeal Brief along with the associated fee, and the proper statement of unintentional delay.

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, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief that was received on December 16, 2011 can be processed.

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

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

Date Mailed : December 20, 2011

Patent No. :7842455
Inventor :10/557948
Patent Issued :Nov 30, 2010
Title :SUSCEPTIBILITY GENE FOR ALZHEIMER'S DISEASE

Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the title page, item (57) Abstract; the presentation of information as requested is not warranted. Applicant states that the abstract of the patent refers to "p21Ec31 A/T polymorphism". However, the abstract does not refer to such term. The current abstract refers to "genetic screens based on genotyping of the p21E2c31 polymorphism and/or the p21Ee +20 C/T polymorphism in the p21 cip 1 gene.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (571) 272-9005.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-9005

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

/arg

02 SEP 2010

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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN TX 77522-2149

In re Application of	:	
DOMINE	:	
Application No.: 10/557,949	:	DECISION ON PETITIONS
Attorney Docket No.: 2004B060D	:	UNDER 37 CFR 1.78(a)(3) AND
For: TIE-LAYER MATERIALS FOR USE WITH	:	UNDER 37 CFR 1.78(a)(6)
IONOMER-BASED FILMS AND SHEETS ON	:	
SKINS ON OTHER MATERIALS	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 30 October 2009, and supplemented on 30 August 2010 and 31 August 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted. With respect to item (3), the statement in the petition 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" has been construed as meaning that "the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional." If this is incorrect, applicant **MUST IMMEDIATELY NOTIFY** the Office of PCT Legal Administration. As so construed, the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120, 365(c) and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Daniel Stemmer at (571)-272-3301. 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 1787 for appropriate action on the amendment submitted 30 October 2009, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed

applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/557,949	11/22/2005	1787	2700	2004B060D	56	3

CONFIRMATION NO. 7921

CORRECTED FILING RECEIPT

23455
EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

OC000000043327172

Date Mailed: 09/02/2010

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)

Joseph Dominic Domine, Humble, TX;

Power of Attorney:

Keith Bell--30023
Richard Phillips--30097
Catherine Bell--35444
Kelly Nowak--35620
Bradley Keller--37654
Frank Reid--37918
Maria Walsh--37958
Michael Cromwell--42449
Amy Carr-Trexler--51531
Leandro Arechederra III--52457

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/16149 05/24/2004
which claims benefit of 60/473,789 05/27/2003
and claims benefit of 60/473,783 05/27/2003
This application 10/557,949
is a CIP of 10/472,871 04/06/2004 ABN
which is a 371 of PCT/US02/08780 03/21/2002
which claims benefit of 60/279,911 03/29/2001

Foreign Applications

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 10/557,949**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Tie-layer materials for use with ionomer-based films and sheets as skins on other materials

Preliminary Class

428

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,155	01/03/2007	Takaji Wakita	1254-0299PUS1	6809

7590 03/23/2011
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
SCHULTZ, JAMES

ART UNIT	PAPER NUMBER
1633	

NOTIFICATION DATE	DELIVERY MODE
03/23/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

March 23, 2011

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

In re Application of	:	
Takaji Wakita et al.	:	**DECISION ON PETITION**
Application No. 10558155	:	
Filed: 1/3/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 1254-0299PUS1	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 23, 2005.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES 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
AUG 05 2010
OFFICE OF PETITIONS

FERENCE & ASSOCIATES LLC
409 BROAD STREET
PITTSBURGH PA 15143

In re Application of	:	
Achillopoulos, Evangelos	:	DECISION ON PETITION
Application No. 10/558,210	:	TO WITHDRAW
Filed: December 5, 2006	:	FROM RECORD
Attorney Docket No. 720.001	:	

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 23, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Stanley D. Ference III on behalf of all attorneys/agents of record who are associated with Customer Number 35195. All attorneys/agents associated with Customer Number 35195 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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: EVANGELOS ACHILLOPOULOS
5, TSOUKA STR
ATHENS 174 5-5 GR GREECE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD CA 92008

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application :
C. Frank Bennett et al. :
Application No. 10/558,216 :
Filed: May 18, 2006 :
Attorney Docket No. ISPH-0543USA :

NOTICE

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 the Office of Publications.

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

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.

Gorman, Thomas W.
E. I. Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington DE 19805

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of :
Kostantinos Kourtakis : DECISION ON PETITION
Application No. 10/558,336 :
Filed: November 23, 2005 :
Atty Docket No. FC0012USPCT :

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 19, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the final Office action mailed May 11, 2010. The Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). A reply, made timely by an extension of time within the second month, was filed on October 11, 2010. However, the amendment was determined not to place the application in condition for allowance (See Advisory Action mailed October 21, 2010). No further reply received and no further extension of time obtained, the application became abandoned effective October 12, 2010. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

In response, applicants filed the instant petition. The petition includes the required reply in the form of a Notice of Appeal (and notice of appeal fee). The petition also includes the petition fee and a statement of unintentional delay. No terminal disclaimer is required. Petitioner has met the requirements for revival pursuant to 37 CFR 1.137(b).

Given that a pre-appeal brief request for review was filed with the notice of appeal, this decision ordinarily would not set forth a period for filing an appeal brief. However, the Notice of Panel Decision from Pre-Appeal Brief Review mailed January 28, 2011 was issued prior to this decision reviving the application. Accordingly, it is appropriate to set the period for filing an appeal brief, pursuant to this decision.

Petitioner is given two (2) months from the mailing date of this decision to file the appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)). The time period for filing the appeal brief may be extended under 37 CFR 1.136.

Technology Center AU 1726 has been advised of this decision. The application is, thereby, forwarded to the Technology Center to await receipt of the Appeal Brief (or other proper reply).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
SEP 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Stephan Hussman, et al.	:	
Application No. 10/558,338	:	DECISION ON PETITION
Filed: March 31, 2008	:	
Attorney Docket No. 4507-1027	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected drawings on or before August 11, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed May 11, 2011. Accordingly, the date of abandonment of this application is August 12, 2011. The Notice of Abandonment was mailed August 26, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) corrected drawings, (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
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

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

MAILED
FEB 17 2012
OFFICE OF PETITIONS

In re Application of Hajime Kondo Application No. 10/558,389 Filed: November 29, 2005 Attorney Docket No. Q91406	: : : : :	DECISION ON PETITION

This is a decision on the petition filed January 27, 2012 to withdraw the holding of abandonment of the above-identified application, which is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is GRANTED.

The above-referenced application was held abandoned, for failure to file an Appeal Brief, within two months of the filing of a Notice of Appeal on June 29, 2011, in response to a Final Office Action mailed March 29, 2011. Accordingly, the Notice of Abandonment was mailed January 26, 2012.

Petitioner argues that the period for response with extensions of time pursuant to 37 CFR 1.136(a) has not lapsed and thus the Abandonment and Notice of Abandonment are premature.

Under the provisions of 37 CFR 1.136(a), an extension of time up to five months could be obtained making the due date for filing an Appeal Brief January 29, 2012, as claimed by petitioner. As the period for extensions had not expired, the application is not abandoned and the Notice of Abandonment was mailed prematurely.

This matter is being referred to Technology Center 1762 for review of the Appeal Brief filed with the petition on January 27, 2012.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of
Sherman T. Waddell et al.
Application No. 10/558,454
Filed: November 28, 2005
Attorney Docket No. 21417P

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR RECALCULATION OF PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R § 1.705" filed April 8, 2011. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from 246 days to 185 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED FIFTEEN (215) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 10, 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 246 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicants acknowledge the period of adjustment of 346 days for Office delay pursuant to 37 CFR 1.702(a)(1) and argue however that the filing of a July 11, 2008 petition to withdraw the holding of abandonment was incomplete and a grantable petition was not filed until November 19, 2008 and as such, the period of applicant delay should be 161 days, for the period June 11, 2008 when the Notice of Abandonment was mailed until November 19, 2008 and not 100 as calculated by the Office.

It is undisputed that a reply was filed on July 11, 2008 and that the reply had an omission that was corrected on November 19, 2008. Pursuant to 37 CFR 1.704(c)(7), the period of PTA should be reduced when Applicant submits a reply having an

[1] PALM records indicate that the issue fee was paid on May 6, 2011.

omission for the period beginning on the date after the date the reply having an omission was filed and ending on the date that the paper correcting the omission was filed. Thus, the period of PTA should have been reduced by 131 days for the period July 11, 2008 to November 18, 2008, not 100 days as calculated by the Office and not 161 days as calculated by Applicant.

Per the authorization accompanying the petition and pursuant to 37 CFR 1.18(e), the Office has charged petitioner's deposit account no. 13-2755 in the amount of $200.00 for the instant petition. 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.

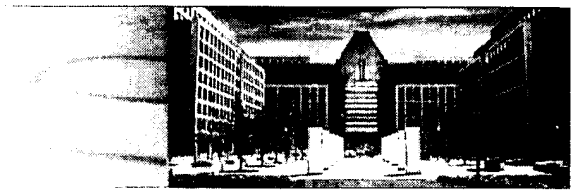
Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

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*: 10558454 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10558454

Application Filing Date 11/28/2005	OverLapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 346
A Delays 346	PTO Manual Adjustment -31
B Delays 0	Applicant Delay (APPL) 100
C Delays 0	Total PTA (days) 215

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
47	08/18/2011		P028	Adjustment of PTA Calculation by PTO		131	0
46	08/18/2011		P028	Adjustment of PTA Calculation by PTO	100		0
39	02/10/2011		MC/N=	Mail Corrected Notice of Allowance			0
38	02/10/2011		C/N=	Corrected Notice of Allowance			0
37	02/10/2011		TCPB	Printer Rush- No mailing			0
35	01/25/2011		WABN	Withdraw Publication/Pre-Exam Abandon			0
34	12/17/2008		MPREV	Mail-Petition to Revive Application - Granted			0
33	12/17/2008		PREV	Petition to Revive Application - Granted			0
32	11/19/2008	08/12/2008	PET.	Petition Entered		100	28
31	09/15/2008		MPTDI	Mail-Petition Decision - Dismissed			0
30	09/15/2008		PTDI	Petition Decision - Dismissed			0
29	07/11/2008		PET.	Petition Entered			0
28	06/11/2008		MABN6	Mail Abandonment for Failure to Pay Issue Fee			0
27	04/11/2008		ABN6	Abandonment for Failure to Pay Issue Fee			0
24	02/12/2008		QURI	Workflow - Query Request - Begin			0
25	02/07/2008		PUBTC	Pubs Case Remand to TC			0
23	01/14/2008		EIDC	Export to Initial Data Capture			0
22	01/10/2008	01/29/2007	MN/=.	Mail Notice of Allowance	346		7
20	01/07/2008		IREV	Issue Revision Completed			0
19	01/07/2008		DVER	Document Verification			0
18	01/07/2008		N/=.	Notice of Allowance Data Verification Completed			0
17	01/07/2008		CNTA	Allowability Notice			0
26	01/02/2008		IDSC	Information Disclosure Statement considered			0
21	01/02/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
14	09/14/2007		IDSC	Information Disclosure Statement considered			0
13	09/14/2007		M844	Information Disclosure Statement (IDS) Filed			0
12	09/14/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
11	08/25/2007		DOCK	Case Docketed to Examiner in GAU			0
10	08/25/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
6	08/10/2006		OIPE	Application Dispatched from OIPE			0
5	08/10/2006		M903	Notice of DO/EO Acceptance Mailed			0
4	07/07/2006		L194	Cleared by OIPE CSR			0
3	07/07/2006		L194	Cleared by OIPE CSR			0
2	07/05/2006		M922	Sequence disclosure problems			0
7	11/29/2005		371COMP	371 Completion Date			0
0.5	05/26/2004		NEFILE	International Filing date			0

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Michael L Goldman
Nixon Peabody
1100 Clinton Square
Rochester, NY 14604

Mail Date: 08/04/2010

Applicant	: Satoshi Ishigai	: DECISION ON REQUEST FOR
Patent Number	: 7644012	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/558,455	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of	:	
Genevieve BENNETT et al.	:	
Application No. 10/558,489	:	DECISION ON PETITION
Filed: November 28, 2005	:	
Attorney Docket No. GB 030084	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 02, 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 25, 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)(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 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 a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of November 25, 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)

This application is being referred to Technology Center AU 1794 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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MICHAEL J. MARCIN, ESQ.**
150 BROADWAY
SUITE 702
NEW YORK, NY 10038

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JAN 13 2011

OFFICE OF PETITIONS

In re Application of
Genevieve Bennett et al
Application No. 10/558,489
Filed: November 28, 2005
Attorney Docket No. GB 030084

DECISION ON REQUEST FOR REFUND

This is a decision on the communication filed October 1, 2010, entitled "PETITION TO THE DIRECTION", which is properly being treated as a Request For Refund.

The request is **DISMISSED**.

A Petition for Revival of Application for Patent abandoned unintentionally under the provisions of 37 CFR 1.137(b) and a response to the final Office action mailed November 25, 2008 (an Advisory Action was mailed on February 9, 2009), in the form of a Request for Continued Examination (RCE) and, an amendment accompanied by the required fees were received in the USPTO on August 2, 2010.

Applicant now files the above request for refund of the petition fee in the amount of $1,620, and states that "During the week of February 23, 2009, Applicant's attorney, Michael J.Marcin, contacted the Examiner by telephone to determine if the Examiner would enter the amendments to claims 6, 8 and 10-12, if the Applicant agreed to cancel newly added claims 13-15. The Examiner agreed and stated that he would enter the Amendments by an Examiner's Amendment. The Examiner did not enter the Amendment." Petitioner further states that "Due to the Examiner's failure to enter an Examiner's Amendment in a timely manner, the above-captioned application, which contained allowable claims, remained abandoned. In order to revive the application, Petitioners filed a Petition under 37 C.F.R. 1.137(b) and paid the $1,620.00 filing fee, instead of filing a Petition under 37 C.F.R. 1.181 without a fee in order to expedite the revival for the client. Since the above-captioned application became abandoned due to the Examiner's failure to enter the Examiner's Amendment, and not due to any actions by the Petitioner, Petitioner respectfully submits that a Petition under 37 C.F.R. 1.181 should have been submitted and therefore, no filing fee was required." However, applicant is encouraged to note MPEP 607.02 which states:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See Ex parte Grady, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the

statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment).

When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is **not** a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).

37 CFR 1.26(a) also states:

The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

Furthermore, MPEP 711.03 (c) states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

Lastly, 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).

In view of the above, the request for refund is dismissed as the petition fee is required and not paid "by mistake". Also, applicant filed the petition under 37 CFR 1.137(b) and not under 37 CFR 1.181. Therefore, the petition under 37 CFR 1.137(b) was treated on the merits as requested.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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0 4 AUG 2010

Dickinson Wright, PLLC
1875 Eye Street, NW
Suite 1200
Washington, D.C. 20006

In re Application of:		
CHARZINSKI et al.	:	
Application No. 10/558,512	:	
PCT No.: PCT/EP2004/050953	::	DECISION ON PETITION
Int. Filing Date: 28 May 2004	:	UNDER 37 CFR 1.181
Priority Date: 28 May 2003	:	
Attorney Docket No.: 39090-45	:	
For: NETWORK NODE OF A PACKET SWITCHING COMMUNICATIONS NETWORK AND METHOD FOR THE DISTRIBUTION OF DATA TRAFFIC IN A PACKET SWITCHING COMMUNICATIONS NETWORK	:	

This decision is issued in response to applicant's "Response to Decision on Petition under 37 CFR 1.181 and Renewed Petition to Withdraw Holding of Abandonment" filed in the United States Patent and Trademark Office (PTO) on 19 May 2010. No petition fee is required.

BACKGROUND

On 28 May 2004, applicant filed international application no. PCT/EP2004/050953 which claimed a priority date of 28 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 December 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 November 2005.

On 28 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: the basic national fee; a translation of the international application; and a preliminary amendment.

On 05 July 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 26 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 05 July 2006.

On 23 June 2009, applicant filed a "Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment." In decision dated 04 August 2009, applicant's petition to withdraw the holding of abandonment was dismissed without prejudice.

On 05 October 2009, applicant filed "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment." In decision dated 26 March 2010, applicant's petition to withdraw the holding of abandonment was dismissed without prejudice.

On 19 May 2010, applicant filed "Response to Decision on Petition under 37 CFR 1.181 and Renewed Petition to Withdraw Holding of Abandonment." The petition requests withdrawal of the holding of abandonment, stating that a response to the Notification Of Missing Requirements was timely filed via facsimile on 08 August 2006.

DISCUSSION

As stated in the previous "Decision on Petition under 37 CFR 1.181," the application file does not contain the materials purportedly filed by facsimile on 08 August 2006. In order to confirm the 08 August 2006 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which states the following:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Referring to the statement required by 37 CFR 1.8(b)(3), MPEP § 512 states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission.

Items (1) and (2) have been previously satisfied.

Item (3) has not been satisfied. Specifically, applicant has not satisfied the requirement of 37 CFR 1.8(b)(3). As previously stated, applicant is required to provide a firsthand statement from the person who faxed the submission (i.e., counsel or the employee in counsel's office who actually did the faxing) detailing the timely faxing of the response (i.e., "on 08 August 2006, I prepared and signed a communication on the above-referenced application, forwarding a signed declaration in response to a Notification of Missing Requirements dated 05 July 2006, and transmitting this declaration via facsimile on 08 August 2006. .)." Petitioner states that Ann Hickey, the person who executed the 37 CFR 1.8 statement, is unavailable. Since petitioner (Kevin Spivak) has not included a statement on how he has firsthand knowledge of the previous transmission, the present petition does not satisfy the requirement of 37 CFR 1.8(b)(3). It is noted that the facsimile transmission report may be used to collaborate the firsthand statement, not as prima facie evidence of the transmission.

Petitioners may wish to consider filing a petition under 37 CFR 1.137(b) to revive the instant application. Any petition filed under 37 CFR 1.137(b) must meet the criteria indicated in 37 CFR 1.137. This suggestion to consider filing a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether any such petition will be favorably considered.

CONCLUSION

Applicant's petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298

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Lerner Greenberg Stemer LLP
P O Box 2480
Hollywood FL 33022-2480

MAILED
OCT 12 2010
PCT LEGAL ADMINISTRATION

In re Application of:
CHARZINSKI et al.
Application No. 10/558,512
PCT No.: PCT/EP2004/050953
Int. Filing Date: 28 May 2004
Priority Date: 28 May 2003
Attorney Docket No.: 2003P06686
For: NETWORK NODE OF A PACKET SWITCHING COMMUNICATIONS NETWORK AND METHOD FOR THE DISTRIBUTION OF DATA TRAFFIC IN A PACKET SWITCHING COMMUNICATIONS NETWORK

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Renewed Petition under 37 CFR 1.181" filed in the United States Patent and Trademark Office (PTO) on 04 October 2010 to withdraw the holding of abandonment. No petition fee is required.

BACKGROUND

On 28 May 2004, applicant filed international application no. PCT/EP2004/050953 which claimed a priority date of 28 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 December 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 November 2005.

On 28 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: the basic national fee; a translation of the international application; and a preliminary amendment.

On 05 July 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 26 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 05 July 2006.

On 23 June 2009, applicant filed a "Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment." In decision dated 04 August 2009, applicant's petition to withdraw the holding of abandonment was dismissed without prejudice.

On 05 October 2009, applicant filed "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment." In decision dated 26 March 2010, applicant's petition to withdraw the holding of abandonment was dismissed without prejudice.

On 19 May 2010, applicant filed "Response to Decision on Petition under 37 CFR 1.181 and Renewed Petition to Withdraw Holding of Abandonment." In decision dated 04 August 2010, applicant's petition to withdraw the holding of abandonment was dismissed without prejudice.

On 04 October 2010, applicant filed "Renewed Petition under 37 CFR 1.181" to withdraw the holding of abandonment. The petition requests withdrawal of the holding of abandonment, stating that a response to the Notification Of Missing Requirements was timely filed via facsimile on 08 August 2006.

DISCUSSION

As stated in the previous "Decision on Petition under 37 CFR 1.181," the application file does not contain the materials purportedly filed by facsimile on 08 August 2006. In order to confirm the 08 August 2006 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which states the following:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Referring to the statement required by 37 CFR 1.8(b)(3), MPEP § 512 states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission."

The evidence filed with the present petition is convincing that the 08 August 2006 response included a declaration with a certificate of facsimile transmission. Additionally, applicants have: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items transmitted on 08 August 2006, (2) supplied copies of the previously mailed correspondence; and (3) included a statement by Ann Hickey which attests on a personal knowledge of the 08 August 2006 transmission. Additionally, petitioner has provided a copy of the sending unit 's report confirming transmission on 08 August 2006.

Accordingly, it is considered appropriate to withdraw the holding of abandonment.

CONCLUSION

As construed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**. The Notification of Abandonment mailed on 26 November 2007 is hereby **VACATED**.

The application has an international filing date of 28 May 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **19 May 2010**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298

UNITED STATES PATENT AND TRADEMARK OFFICE

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CONLEY ROSE, P.C.
David A. Rose
600 TRAVIS, SUITE 7100
HOUSTON, TX 77002

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Ian DONALD, et *al.*	:	
Application No. 10/558,593	:	DECISION GRANTING PETITION
Filed: November 29, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1600-19404**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 22, 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 January 24, 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 3672 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-8-11

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10558842 Patent No.: 7765497

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

JACK CHIANG
SUPERVISORY PATENT EXAMINER

_____ **SPE**

2825 **Art Unit**

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of
Tsuneo Yasuma et al.
Application No. 10/558,846
Filed: November 30, 2005
Attorney Docket No. 2007_0365

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT filed February 16, 2010 and the SUPPLEMENTAL REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT filed March 1, 2010, requesting correction of the patent term adjustment indicated on the above-identified patent from 118 days to 261days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court 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 **DISMISSED**.

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by one (1) day in that the Office action response was filed on the first business day after a deadline falling on a weekend or holiday and thus was not late.

Applicant's arguments have been considered, but not found to be persuasive.

Rule 1.704(b) sets forth, in pertinent part:

> 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.

[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 period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A non-Final Office Action was mailed on February 11, 2008 and the response therefore was due on May 11, 2008. May 11, 2008 was a weekend and thus, the response was received on May 12, 2008 which is three months and one day later. As such, a reduction of one day was assessed. Patentees have argued that this is improper, as May 11, 2008 fell on a weekend. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[2] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[3] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

Additionally, Applicants dispute the reduction of 85 days of PTA pursuant to 1.704(c)(8) for the filing of a supplemental information disclosure statement on October 2, 2009.

On July 9, 2009 applicants filed a response to the non-final Office action mailed April 9, 2009. Then on October 2, 2009, applicants filed a Supplemental Response.

Applicant's arguments have been considered, but not found to be persuasive. Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

In this instance, the filing of the Supplemental Information Disclosure Statement on October 2, 2009 is considered a failure to engage under 1.704(c)(8). The record does not support a conclusion that the IDS was expressly requested by the examiner and neither did the IDS include a 1.704(d) statement.

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 118 days.

The record supports a conclusion that this application is not subject to a terminal disclaimer"

---

[2] "With respect to adjustments to patent term made under the authority of paragraph (1)(B), 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 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

[3] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Salman et al.	:	DECISION ON
Application No. 10/558,859	:	APPLICATION FOR
Filed: 08/17/2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
4220-129-US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b)," filed on January 21, 2011. Applicants request that the initial determination of Patent Term Adjustment for the above-identified patent be corrected from 853 days to 821 days.

The application for patent term adjustment patent is **GRANTED TO THE EXTENT INDICATED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 818 days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On October 21, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application, stating that the patent term adjustment to date was 853 days (904 days of Office delay and 51 days of applicant delay). This application for patent term adjustment was timely filed with or prior to payment of the issue fee.[1]

Applicants disclose that a reduction of 35 days for applicant delay should be entered in connection with the delay in filing a petition to withdraw the holding of abandonment.

[1] PALM records indicate that the issue fee was paid on January 21, 2011.

Upon review, applicants are correct. On May 21, 2009, a notice of abandonment was mailed. On August 25, 2009, two months and 35 days after the day after the date the notice of abandonment was mailed, a petition to withdraw the holding of abandonment was filed. Pursuant to 37 CFR 1.704(c)(4), entry of a period of reduction of 35 days for applicant delay is warranted.

Applicants assert that the period of reduction of three (3) days for applicant delay for the filing of a reply on August 31, 2010, three months and three days after the mailing of the Office action mailed on May 28, 2010, is incorrect and should be removed. Applicants assert that the reply was timely filed on Monday, August 30, 2010.

Applicants argument is not persuasive. A review of the official file reveals that the response to the Office action was received on August 31, 2010. Accordingly, applicants were properly assessed a delay of three (3) days for filing a response on August 31, 2010. Calculation of applicants' delay is based on the date of receipt of the response in the Office. 35 U.S.C. § 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period.[2] Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

As the reply filed on August 31, 2010, was received three (3) months and three (3) days after the day after the date the Office action was mailed, May 28, 2010, entry of a period of reduction of 3 days for applicant delay is warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is eight hundred eighteen (818) days (904 days of Office delay and 86 (35 + 3 + 48) days of applicant delay).

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

---

[2] See, Comment 11, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56366 (September 18, 2000).

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 the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Copy of adjusted PAIR calculation

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/558,859

Filing or 371(c) Date:	08-17-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	904
A Delays:	904	PTO Manual Adjustments:	-35
B Delays:	0	Applicant Delays:	51
C Delays:	0	Total PTA Adjustments:	818

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
96	03-09-2011	Adjustment of PTA Calculation by PTO		35	0
82	10-21-2010	Mail Notice of Allowance			0
81	10-20-2010	Issue Revision Completed			0
80	10-20-2010	Notice of Allowance Data Verification Completed			0
79	10-20-2010	Case Docketed to Examiner in GAU			0
78	10-20-2010	Document Verification			0
77	10-20-2010	Examiner's Amendment Communication			0
76	10-20-2010	Allowability Notice			0
75	10-15-2010	Examiner Interview Summary Record (PTOL - 413)			0
74	10-18-2010	Information Disclosure Statement considered			0
73	10-18-2010	Reference capture on IDS			0
72	10-18-2010	Information Disclosure Statement (IDS) Filed		48	64
71	10-18-2010	Information Disclosure Statement (IDS) Filed			0
68	09-27-2010	Information Disclosure Statement considered			0
67	09-27-2010	Information Disclosure Statement (IDS) Filed			0
66	09-27-2010	Information Disclosure Statement (IDS) Filed			0
65	09-02-2010	Date Forwarded to Examiner			0
64	08-31-2010	Response after Non-Final Action		3	63
63	05-28-2010	Mail Non-Final Rejection			0
62	05-27-2010	Non-Final Rejection			0
59	08-21-2006	Information Disclosure Statement considered			0
58	03-06-2007	Information Disclosure Statement considered			0
57	03-06-2007	Information Disclosure Statement (IDS) Filed			0
56	08-21-2006	Information Disclosure Statement (IDS) Filed			0
55	05-11-2010	Date Forwarded to Examiner			0
54	05-06-2010	Response to Election / Restriction Filed			0
53	07-06-2007	Information Disclosure Statement considered			0
52	12-03-2008	Information Disclosure Statement considered			0
51	11-16-2009	Information Disclosure Statement considered			0
50	01-29-2010	Information Disclosure Statement considered			0
49	04-15-2010	Information Disclosure Statement considered			0
48	04-15-2010	Information Disclosure Statement (IDS) Filed			0
47	04-15-2010	Information Disclosure Statement (IDS) Filed			0
46	04-08-2010	Mail Restriction Requirement	904		26
45	04-08-2010	Restriction/Election Requirement			0
44	04-02-2010	Case Docketed to Examiner in GAU			0
43	03-04-2010	PG-Pub Issue Notification			0
42	02-03-2010	Case Docketed to Examiner in GAU			0
41	01-29-2010	Information Disclosure Statement (IDS) Filed			0
40	11-16-2009	Reference capture on IDS			0
39	11-16-2009	Information Disclosure Statement (IDS) Filed			0

38	12-03-2008	Reference capture on IDS	0
37	12-03-2008	Information Disclosure Statement (IDS) Filed	0
36	07-06-2007	Reference capture on IDS	0
35	07-06-2007	Information Disclosure Statement (IDS) Filed	0
34	03-06-2007	Information Disclosure Statement (IDS) Filed	0
33	08-21-2006	Reference capture on IDS	0
32	08-21-2006	Information Disclosure Statement (IDS) Filed	0
29	01-29-2010	Information Disclosure Statement (IDS) Filed	0
28	12-15-2009	Case Docketed to Examiner in GAU	0
27	12-14-2009	Application Dispatched from OIPE	0
26	08-17-2006	371 Completion Date	0
25	11-24-2009	Sent to Classification Contractor	0
24	11-24-2009	Filing Receipt	0
23	11-24-2009	Notice of DO/EO Acceptance Mailed	0
22	11-24-2009	Mail Pre-Exam Notice	0
21	11-24-2009	Mail Pre-Exam Notice	0
20	02-02-2007	Pre-Exam Office Action Withdrawn	0
19	05-21-2009	Withdraw Pre-Exam Abandon	0
18	11-16-2009	Information Disclosure Statement (IDS) Filed	0
17	11-09-2009	Mail-Petition Decision - Granted	0
16	11-09-2009	Petition Decision - Granted	0
15	08-25-2009	Petition Entered	0
13	05-21-2009	Abandonment Mailed	0
12	05-20-2009	Abandonment -- Inc. Application under Rule 53(b) - Filing Fee Paid	0
11	12-03-2008	Information Disclosure Statement (IDS) Filed	0
10	07-06-2007	Information Disclosure Statement (IDS) Filed	0
9	04-10-2007	Correspondence Address Change	0
8	04-10-2007	Change in Power of Attorney (May Include Associate POA)	0
7	02-02-2007	Notice of DO/EO Defective Response Mailed.	0
6	08-17-2006	Additional Application Filing Fees	0
5	08-21-2006	Information Disclosure Statements	0
4	08-17-2006	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0

Close Window

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PHILADELPHIA PA 19103-3508

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AUG 01 2011

OFFICE OF PETITIONS

In re Application of :
Watt et al. :
Application No. 10/558,863 : ON PETITION
Filed: April 12, 2006 :
Attorney Docket No. 133119.00401 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 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 timely obtained. Accordingly, the application became abandoned on November 15, 2009. A Notice of Abandonment was mailed March 4, 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1636 for appropriate action by the Examiner in the normal course of business on the reply received July 18, 2011

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: DANIEL SCOLNICK
PEPPER HAMILTON, LLP
400 BERWYN PARK
899 CASSAT ROAD
BERWYN,PA 19312--118

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,902	12/01/2005	Michael Horstmann	512100-2050	6032

7590 01/20/2011

William F Lawrence
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

EXAMINER
ROGERS, MARTIN K

ART UNIT	PAPER NUMBER
1747	

MAIL DATE	DELIVERY MODE
01/20/2011	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.

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

wk

1/20/2011

Mailed:
In re application of
Horstmann
Serial No. 10/558,902
Filed: December 1, 2005
For: Direct Coating Method

DECISION ON PETITION

This is a response to Applicants Petition filed on October 13, 2010 to enter the after-final amendment filed on August 9, 2010.

Applicants filed the Amendment in reply to the Final Rejection of July 6, 2010. The Amendment sought to incorporate the subject matter of Claims 2 and 4 into independent Claim 1. The Examiner refused entry in that the amendment raised new issues which would require further consideration and/or search. Applicant asserts that the Amendment would not involve significant additional consideration or search presuming that the Examiner conducted a careful and comprehensive search.

Once a final rejection that is not premature has been entered in an application, Applicants no longer have any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. An amendment touching the merits of the application may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

A review of the record does not indicate that amendment entry would have place the application in condition for allowance nor in better form for appeal. Further, Applicants have not demonstrated a showing of good and sufficient reasons why the amendment was necessary and was not earlier presented.

DECISION

The Petition is **DENIED**.

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

Serial Number: 10/588,902

William F Lawrence
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Freeman et al.	:	
Application No. 10/558,976	:	DECISION ON PETITION
Filed: November 3, 2006	:	
Attorney Docket No. 38187-2797.US	:	

This is a decision on the petition under 37 CFR 1.182, filed December 15, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries regarding this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3736 for further examination on the merits.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/558,976	11/03/2006	3736	3140	38187-2797 US	97	9

CONFIRMATION NO. 7242

25213
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

FILING RECEIPT

OC000000022089626

Date Mailed: 01/23/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Dirk Boecker, Palo Alto, CA;
Dominique M. Freeman, La Honda, CA;
Don Alden, Sunnyvale, CA;
Matt Schumann, Cambridge, UNITED KINGDOM;
Michael Beadman, Cambridge, UNITED KINGDOM;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number 25213

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/17063 05/28/2004
which is a CIP of 10/452,815 05/30/2003
which claims benefit of 60/422,988 11/01/2002
and claims benefit of 60/424,429 11/06/2002
and claims benefit of 60/428,084 11/20/2002
and said PCT/US04/17063 05/28/2004
claims benefit of 60/474,915 05/30/2003
and is a CIP of 10/613,517 07/03/2003
which is a CIP of 10/425,815 04/29/2003 ABN
and is a CIP of 10/323,622 12/18/2002
which is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and said 10/613,517 07/03/2003
is a CIP of 10/237,261 09/05/2002
and is a CIP of 10/420,535 04/21/2003
and is a CIP of 10/335,142 12/31/2002

and is a CIP of 10/423,851 04/24/2003 PAT 7,141,058
and claims benefit of 60/422,988 11/01/2002
and claims benefit of 60/424,429 11/06/2002

Foreign Applications

If Required, Foreign Filing License Granted: 01/20/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/558,976**

Projected Publication Date: 05/03/2007

Non-Publication Request: No

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

Method and apparatus for body fluid sampling and analyte sensing

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative,

this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Egbert Schola, et al.	:	
Application No. 10/559,075	:	DECISION GRANTING PETITION
Filed: March 30, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 282001US0PPCT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 30, 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 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1625 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

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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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

2-24-2012

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

Patent No : 7,384,046 B2
Ser. No. : 10/559,077
Inventor(s) : Herve LE MASNE DE CHERMONT
Issued : June 10, 2008

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

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

Browdy and Neimark
1625 K. Street N.W., Suite 1100
Washington, DC 20006

ej

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster 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): 10/559,079	Patent Number (if applicable):
First Named Inventor: KOMACHIYA, et al.	Title of Invention: FUEL CELL POWER GENERATING SYSTEM WITH LEARNING CONTROL

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 on March 11, 2011.

   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 /Paul J. Skwierawski/	Date May 9, 2011
Name (Print/Typed) Paul J. Skwierawski	Practitioner Registration Number 32,173

***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 _____ forms are submitted.

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Masahiro KOMACHIYA et al.	:	
Application No. 10/559,079	:	DECISION ON PETITION
Filed: April 14, 2006	:	
Attorney Docket No.: 500.45656X00	:	

This is a decision on the request filed May 9, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 21, 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 the undersigned 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 1729 for re-mailing of the Office action of January 21, 2011. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: M0025.0342/P342	Patent Number: 7,663,107
Filing Date (or 371(b) or (f) Date): April 19, 2004	Issue Date: February 16, 2010
First Named Inventor: Taday	
Title: METHOD AND APPARATUS FOR QUANTITATIVE ANALYSIS USING TERAHERTZ RADIATION	

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 13, 2010
Name (Print/Typed) Stephen A. Soffen	Registration Number 31,063

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

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 09/14/2010

Applicant	: Philip Francis Taday	: DECISION ON REQUEST FOR
Patent Number	: 7663107	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/559,107	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2006	: 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON DC 20036

MAILED
JUN 27 2011
PCT LEGAL ADMINISTRATION

In re Application of
DZIALLAS et al.
Application No.: 10/559,152
Filing Date: March 30, 2004
Attorney Docket No.: 034166.006US
For: MEMBRANE-ELECTRODE UNIT FOR DIRECT METHANOL FUEL CELLS AND METHOD FOR THE PRODUCTION THEREOF

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 30, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed on April 28, 2009.

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 applications 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 claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition does not comply with item (1) above for the following reasons:

The reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matter is required.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

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

Bryan Lin

Bryan Lin
Legal Examiner
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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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON DC 20036

MAILED

JUL 25 2011

PCT LEGAL ADMINISTRATION

In re Application of :
DZIALLAS et al. :
Application No.: 10/559,152 :
Filing Date: March 30, 2004 :
Attorney Docket No.: 034166.006US :
For: MEMBRANE-ELECTRODE UNIT FOR DIRECT METHANOL FUEL CELLS AND METHOD FOR THE PRODUCTION THEREOF :

DECISION ON PETITION

This decision is issued in response to applicant's "Renewed Petition for Acceptance of Unintentionally Delayed Claim of Benefit under 37 CFR 1.78(a)(3)," filed July 12, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed on July 12, 2011.

The petition under 37 CFR 1.78(a)(3) 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 international 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 claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those application filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition complies with the requirements for a grantable petition under 37 CFR

1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications 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 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.

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the appropriate Technology Center Art Unit for action on the amendment filed July 12, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed international application.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/559,152	04/26/2006	1727	1030	034166.006US	9	2

CONFIRMATION NO. 9050

CORRECTED FILING RECEIPT

441
SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON, DC 20036

OC000000048794233

Date Mailed: 07/15/2011

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)

Holger Dziallas, Ense, GERMANY;
Sandra Wittpahl, Obertshausen, GERMANY;
Joachim Kohler, Grundau/Haingrundau, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 25461

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP04/03362 03/30/2004
and is a CIP of 10/308,491 12/03/2002 PAT 7,141,270

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.)
GERMANY 103253246 06/04/2003

If Required, Foreign Filing License Granted: 06/30/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/559,152**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Membrane-electrode unit for direct methanol fuel cells and method for the production thereof

Preliminary Class

429

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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NEW YORK, NY 10022

MAILED
FEB 09 2012
OFFICE OF PETITIONS

In re Patent No. 7,276,525	:	
Issue Date: October 2, 2007	:	
Application No. 10/559,155	:	ON PETITION
Filed: March 13, 2006	:	
Attorney Docket No. 20013.36	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 3, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 2, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The Revocation and Power of Attorney filed January 3, 2012 has been accepted and made of record; however, petitioner should note that the mere filing of a power of attorney and/or a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, the "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) forms should be submitted.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAILED
MAR 16 2012
OFFICE OF PETITIONS

Tannenbaum Helpern
Syracuse & Hirschtritt LLP
900 Third Avenue
New York NY 10022

In re Patent No. 7,276,525	:	
Issue Date: October 2, 2007	:	
Application No. 10/559,155	:	DECISION ON PETITION
Filed: March 13, 2006	:	
Attorney Docket No. 20013.36	:	

This is a decision on the Request For Certificate Of Correction, filed January 3, 2012, which is being treated as a Petition Under 37 CFR §3.81(b), to add the omission of the second assignee's name and correct inventor's address. 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 add the omission of the second assignee's name and correct inventor's address on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name and correct inventor's address 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 $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), and the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), are required. However, since the petition was accompanied deposit account authorization, the fees have been charged. 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. 7,276,525.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ILYA ZBOROVSKY
3 COURTYARD CIRCLE
CENTERPORT NY 11721

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Igor Mikhailovich Gomzar	:	
Application No. 10/559156	:	ON PETITION
Filing or 371(c) Date: 12/01/2005	:	
Title of Invention:	:	
DEVICE AND COMPOSITION FOR	:	
BLOWING A SOAP BUBBLE	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed October 17, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed February 17, 2011. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on May 18, 2011. A Notice of Abandonment was mailed May 18, 2011.

Applicant files the present petition and includes corrected drawings in response to the Notice of Allowability. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Publishing Division for processing into a patent.

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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MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,872,052
Issued: January 18, 2011
Application No. 10/559,322
Filed: April 26, 2006
Attorney Docket No. 13425-0178US1 / BV-1115 US

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) on March 17, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 270 to 403 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On January 18, 2011, the above-identified application matured into U.S. Patent No. 7,872,052, with a revised patent term adjustment of 270 days. On March 17, 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 403. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on September 8, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 133 day period from September 8, 2010 (the mailing date of the Notice of Allowance) until January 18, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 133 days and be increased from 206 to 339 days. Patentee concludes that the correct patent term adjustment is 403 days (the sum of 240 days of "A delay" and 339 days of "B delay" minus 176 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR

1.702(b)(1) as 265 days based on the national stage commencement date under 35 U.S.C. 371(b) or (f) of April 26, 2006 and the patent not having issued as of the day after the three year date, April 26, 2009, and a request for continued examination under 132(b) having been filed on July 1, 2009. In other words, the 133-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that

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[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of

the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice

of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151: See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C.

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on July 1, 2009, and the patent issued by virtue of that request on January 18, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 1, 2009 and ending on January 18, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 660 days indicated on the patent is correct.

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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OFFICE OF PETITIONS

In re Patent No. 7,872,052
Issued: January 18, 2011
Application No. 10/559,322
Filed: April 26, 2006
Attorney Docket No. 13425-0178US1 / BV-1115 US

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181(a)(3) TO INVOKE THE SUPERVISORY AUTHORITY OF THE DIRECTOR REGARDING AN APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(D), filed July 26, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 270 to 403 days.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

The patent term adjustment indicated in the previous decision mailed June 23, 2011 is properly indicated.

Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on September 8, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 133 day period from September 8, 2010 (the mailing date of the Notice of Allowance) until January 18, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 133 days and be increased from 206 to 339 days. Patentee concludes that the correct patent term adjustment is 403 days (the sum of 240 days of "A delay" and 339 days of "B delay" minus 176 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered.

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 265 days based on the national stage commencement date under 35 U.S.C. 371(b) or (f) of April 26, 2006 and the patent not having issued as of the day after the three year date, April 26, 2009, and a request for continued examination under 132(b) having been filed on July 1, 2009. In other words, the 133-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000

[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.

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, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2)

[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.

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).

[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.

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 1, 2009, and the patent issued by virtue of that request on January 18, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 1, 2009 and ending on January 18, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is **DENIED**.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,662,849	: DECISION ON REQUEST
Patterson, et al.	: FOR
Issue Date: February 16, 2010	: RECONSIDERATION OF
Application No. 10/559,405	: PATENT TERM ADJUSTMENT
Filed: June 26, 2006	: and
Atty Docket No. **026503-005010US**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 24, 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 (800) 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 (800) days is **GRANTED.**

Deposit account 20-1430 will be charged $200. 00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 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 (800) 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 : 7,662,849 B2

DATED : Feb. 16, 2010

INVENTOR(S) : Patterson, 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 (579) days

Delete the phrase "by 579 days" and insert – by 800 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

MICHAEL BEST & FRIEDRICH LLP
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE, SUITE 2000
CHICAGO, IL 60601

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of
Robert Kopetzky, et al.
Application No. 10/559,522
Filed: September 29, 2006
Attorney Docket No.: 013944-9012

ON PETITION

This is a decision in response to the petition, filed July 14, 2011, 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 timely reply within the meaning of 37 CFR 1.113 to the final Office action of September 1, 2010. A Notice of Abandonment was subsequently mailed on March 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 3636 for appropriate action in the normal course of business on the reply received July 14, 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 it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of :
Filicori :
Application No. 10/559,610 : ON APPLICATION FOR
Filed: January 31, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 033236-0147:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705" filed May 31, 2011, which is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred and fifty-six (256) days, not thirty-seven (37) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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

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

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

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on March 19, 2010[2].

To the extent that applicants 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**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On March 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 is 37 days. On May 31, 2011, applicants submitted the instant petition.

The review of the application file history reveals that the patent term was incorrectly adjusted by 64 days pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2) after it appeared that the Office delayed responding to a Request for Continued Examination purportedly filed March 19, 2009. In fact, applicant filed no Request for Continued Examination on March 19, 2009; this entry was made incorrectly in Office PALM records. In fact, a non-final Office action was mailed January 30, 2009, to which applicant responded on July 28, 2009, with a Notice of Appeal and amendment after final rejection. Thereafter, the Office mailed a final rejection on September 21, 2009, within four months of the filing of the Notice of Appeal and amendment after final rejection. Accordingly, the entry of 64 days of adjustment to the patent term is unwarranted and is being removed.

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[2] It is noted that Office PALM records incorrectly indicate that a Request for Continued Examination and request for extension of time were filed on March 19, 2009. In fact, neither filing is of record in the Image File Wrapper (IFW) for the application, nor do Office accounting databases indicate that any payments for an extension of time were made on March 19, 2009. It appears that this entry was incorrectly made.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days (222 days of Office delay - 249 days of applicant delay).

The petition fee $200.00 set forth in 37 CFR 1.18(e) will be charged to deposit account 19-0741.

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.

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 regarding this specific 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 REVISED PALM screen

Patent Term Adjustments

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

Application Number*: 10559610 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10559610

Application Filing Date	01/31/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	286
A Delays	286	PTO Manual Adjustment	-64
B Delays	0	Applicant Delay (APPL)	249
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
87	06/13/2011		P028	Adjustment of PTA Calculation by PTO		64	0
79	03/02/2011		MN/=.	Mail Notice of Allowance			0
78	02/28/2011		IREV	Issue Revision Completed			0
74	02/24/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
73	02/24/2011		DVER	Document Verification			0
72	02/24/2011		N/=.	Notice of Allowance Data Verification Completed			0
71	02/24/2011		DOCK	Case Docketed to Examiner in GAU			0
70	02/22/2011		EX.A	Examiner's Amendment Communication			0
69	02/22/2011		CNTA	Allowability Notice			0
67	12/13/2010		FWDX	Date Forwarded to Examiner			0
68	12/09/2010		IDSC	Information Disclosure Statement considered			0
66	12/09/2010	09/09/2010	A...	Response after Non-Final Action		91	61
65	12/09/2010		XT/G	Request for Extension of Time - Granted			0
64	12/09/2010		M844	Information Disclosure Statement (IDS) Filed			0
63	12/09/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
61	06/09/2010		MCTNF	Mail Non-Final Rejection			0
60	06/07/2010		CTNF	Non-Final Rejection			0
55	03/30/2010		FWDX	Date Forwarded to Examiner			0
53	03/30/2010		FWDX	Date Forwarded to Examiner			0
51	03/30/2010		ABN9	Disposal for a RCE / CPA / R129			0
59	03/19/2010		IDSC	Information Disclosure Statement considered			0
57	03/19/2010		RCAP	Reference capture on IDS			0
56	03/19/2010		M844	Information Disclosure Statement (IDS) Filed			0
54	03/19/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
49	03/19/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
48	03/19/2010		BRCE	Workflow - Request for RCE - Begin			0
47	09/21/2009	07/19/2009	MCTFR	Mail Final Rejection (PTOL - 326)	64		52
46	09/21/2009		CTFR	Final Rejection			0
42	08/07/2009		FWDX	Date Forwarded to Examiner			0
41	07/28/2009		AP/A	Amendment/Argument after Notice of Appeal			0
40	07/28/2009		N/AP	Notice of Appeal Filed			0
39	07/28/2009		XT/G	Request for Extension of Time - Granted			0
52	03/19/2009		RCEX	Request for Continued Examination (RCE)			0
50	03/19/2009		XT/G	Request for Extension of Time - Granted			0
38	01/30/2009	01/22/2009	MCTNF	Mail Non-Final Rejection	8		30
36	01/21/2009		CTNF	Non-Final Rejection			0
43	11/26/2008	09/22/2008	M844	Information Disclosure Statement (IDS) Filed		65	30
34	11/26/2008		IDSC	Information Disclosure Statement considered			0
32	11/26/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
31	10/27/2008		FWDX	Date Forwarded to Examiner			0
33	09/22/2008		IDSC	Information Disclosure Statement considered			0
30	09/22/2008	06/21/2008	A...	Response after Non-Final Action		93	25
29	09/22/2008		XT/G	Request for Extension of Time - Granted			0
28	09/22/2008		RCAP	Reference capture on IDS			0
27	09/22/2008		M844	Information Disclosure Statement (IDS) Filed			0
26	09/22/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
25	03/21/2008		MCTNF	Mail Non-Final Rejection			0
24	03/12/2008		CTNF	Non-Final Rejection			0
19	01/07/2008		DOCK	Case Docketed to Examiner in GAU			0
18	12/27/2007		FWDX	Date Forwarded to Examiner			0
17	11/30/2007		ELC.	Response to Election / Restriction Filed			0
16	10/31/2007	03/31/2007	MCTRS	Mail Restriction Requirement	214		5
15	10/29/2007		CTRS	Restriction/Election Requirement			0
14	10/24/2007		DOCK	Case Docketed to Examiner in GAU			0
13	07/21/2007		DOCK	Case Docketed to Examiner in GAU			0

12	07/11/2007	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
20	05/31/2007	IDSC	Information Disclosure Statement considered	0
9	05/31/2007	RCAP	Reference capture on IDS	0
8	05/31/2007	M844	Information Disclosure Statement (IDS) Filed	0
7	05/31/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
4	04/17/2007	OIPE	Application Dispatched from OIPE	0
3	04/17/2007	M903	Notice of DO/EO Acceptance Mailed	0
5	01/31/2006	371COMP	371 Completion Date	0
0.5	06/02/2004	NEFILE	International Filing date	0

Export to: Excel

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MAILED
SEP 19 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,985,732	: DECISION ON REQUEST
Filicori	: FOR
Issue Date: July 26, 2011	: RECONSIDERATION OF
Application No. 10/559,610	: PATENT TERM ADJUSTMENT
Filed: January 31, 2006	: and
Atty Docket No. **033236-0147**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 7, 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 two hundred and fifty-six (256) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred and fifty-six (256) days is **GRANTED**.

Deposit account 19-0741 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 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 two hundred and fifty-six (256) 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 : 7,985,732 B2

DATED : Jul. 26, 2011

INVENTOR(S) : Filicori

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 (0) days

Delete the phrase "by 0 days" and insert – by 256 days--

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,239,580	2007-07-03	10/559,623	2005-12-06	BRUN-002XX

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	/Victor B. Lebovici/	Date (YYYY-MM-DD)	2011-08-05
Name	Victor B. Lebovici	Registration Number	30864

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. 7239580
Issue Date: July 3,2007
Application No. 10559623
Filed: December 6,2005
Attorney Docket No. BRUN-002XX

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

This is a decision on the electronic petition, filed August 5,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 5,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/30/11

TO SPE OF : ART UNIT: 1784 Attn: ZIMMERMAN JOHN J

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/559641 Patent No.: 7517591

C of C Mailroom date: 03/21/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: No evidence was provided to support allegation of mistranslation (such as a certified translation) and the correction would broaden the scope of the compositions originally disclosed

J. McNeil — 1784
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

Patent No. : 7517591 B2
Application No.: 10/559641
Inventor(s) : Tatsuya MIYOSHI et al.
Issued : 04/14/2009
Attorney Docket No.: 05825/HG

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) 1.323.

No evidence was provided to support allegation of mistranslation (such as a certified translation) And the correction would broaden the scope of the compositions originally disclosed.

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

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 04/14/2011

Address: Richard S. Barth
Holtz, Holtz, Goodman & Chick, P.C.
220 Fifth Avenue, 16th Floor
New York, NY 10001-7708

ts/MD

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

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

Mail Date: 08/04/2010

Applicant	: Peter Hawes	: DECISION ON REQUEST FOR
Patent Number	: 7651550	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/559,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **651** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAGINOT, MOORE & BECK
CHASE TOWER
SUITE 3250
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Clausen et al.	:	DECISION ON PETITION
Application No. 10/559,751	:	TO WITHDRAW
Filed: September 18, 2006	:	FROM RECORD
Attorney Docket No. LAN0067US	:	

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 6, 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
Petitions Examiner
Office of Petitions

cc: SpryIP, LLC
LAN
5009 163rd PL SE
Bellevue WA 98006

UNITED STATES 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 15, 2012

In re Application of :

Josef Zelger

Application No : 10559888

Filed : 07-Dec-2005

Attorney Docket No : C000022898

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed March 15, 2012 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	10559888
Filing Date	07-Dec-2005
First Named Inventor	Josef Zelger
Art Unit	1763
Examiner Name	MOHAMMADREZA ASDJODI
Attorney Docket Number	C000022898
Title	STORAGE-STABLE FLUORESCENT WHITENER FORMULATIONS

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/shiela a loggins/
Name	Shiela A. Loggins
Registration Number	56221

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Perman & Green, LLP
99 Hawley Lane
Stratford CT 06614

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of Andreas Manz, et al. Application No. 10/559,958 Filed: June 30, 2006 Attorney Docket No. 1009-012425-US (PAR)	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed March 7, 2012.

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

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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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD NJ 07090

MAILED
DEC 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Biondi et al.	:	
Application No. 10/559,971	:	ON PETITION
Filed: July 27, 2006	:	
Attorney Docket No. 7003/47	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Response to Restriction Requirement, including an election, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 1626 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

7-21-2011

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

Patent No. : 7,589,003 B2
Inventor(s) : Kouvetakis, et. al.
Issued : September 15, 2009
Application No: 10/559,981

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.

The alleged error on the title page, item [75] inventors: request for correction of inventorship must be accompanied by Petition satisfying request of Rule 1.224 for case that's' already issued. Earlier petition filed under Rule 1.48 does not meet the requests.

In view of the foregoing, your request 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 1.83(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.

Eva James
For Mary Diggs

Decisions & Certificates
of Correction Branch
571-272-3422 or 1580

David S. Harper
McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

ej

PTO/SB/131 (02-10)
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:	136922005600		
Application Number:	10/559,985	Filing Date (or 371(b) or (f) Date):	April 24, 2006
Patent Number:	7,747,924	Issue Date:	June 29, 2010
First Named Inventor:	William Henry Christopher DOYLE		
Title:	METHOD AND APPARATUS FOR COPYING COPY PROTECTED OPTICAL DISCS (AS AMENDED)		

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. T HE 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	NR Klivans	Date	August 24, 2010
Name (Print/Typed)	Norman R. Klivans	Registration Number	33,003

***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 if more than one signature, see below**.*

[X] *Total of 1 Form(s) are submitted.

Client Reference No.: 0230

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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PATENT DEPARTMENT
ROVI CORPORATION
2830 DE LA CRUZ BOULEVARD
SANTA CLARA, CA 95050

Mail Date: 09/14/2010

Applicant	: William Henry Christopher Doyle	: DECISION ON REQUEST FOR
Patent Number	: 7747924	: RECALCULATION of PATENT
Issue Date	: 06/29/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/559,985	: OF WYETH
Filed	: 04/24/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,022	08/17/2006	David Shilliday	53982/323801	1007

23370 7590 03/30/2011
JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

EXAMINER
BERGIN, JAMES S

ART UNIT	PAPER NUMBER
3641	

NOTIFICATION DATE	DELIVERY MODE
03/30/2011	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):

ipefiling@kilpatricktownsend.com
jlhice@kilpatrick.foundationip.com

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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MAR 2 9 2011

John S. Pratt, Esq.
Kilpatrick Townsend & Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

In re Application of Shilliday et al. Application No. 10/560,022 Filed: August 17, 2006 For: DISTRIBUTED CHARGE INFLATOR SYSTEM	: : : : :	DECISION ON PETITION UNDER 37 CFR § 1.181

This is in response to applicants' submission denominated "Response To and Request for Withdrawal of Improper Notice of Non-Compliant Amendment" received February 22, 2011 which is being treated as a petition under 37 CFR 1.181 for Supervisory Review.

The petition is **GRANTED**.

A review of the record shows that a Non-Final Office action rejecting claims 15-24 was mailed on March 4, 2010; claims 1-14 and 25-28 were cancelled via a preliminary amendment. In a Response filed May 26, 2010, applicants cancelled claim 15 and rewrote claim 16 in independent form, thus no substantive amendment to claim 16 was made. On August 17, 2010 the Examiner made a requirement for restriction among four species identified as lacking unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. In a Response filed November 12, 2010, Applicants questioned the appropriateness of the "election-of-species requirement after having examined all claims of the application and after having received Applicant's challenge to the prima facie basis for the initial rejection." Applicants then elected species B as identified in the August 17, 2010 Office action and indicated that claims 16-23 are directed to the elected species.

In response to the Election, the examiner issued a Notice of Non-Responsive Amendment because "the applicants have not formally indicated whether the election of Species B is being made with traverse or without traverse." Petitioner asserts that MPEP 818.03 sets forth that an election in reply to a requirement ***may be made*** either with or ***without an accompanying traverse of the requirement*** (emphasis added by Petitioner). Thus, Petitioner argues, that an election was made "without an accompanying traverse of the requirement." MPEP 818.03(c) further sets forth that if an

applicant does not distinctly and specifically point out supposed errors in the restriction requirement, the election should be treated as an election without traverse and be so indicated to the applicant by use of form paragraph 8.25.02.

Although Applicants' election did not expressly include the phrase "with traverse" or "without traverse", Applicants' questioning of the appropriateness of the "election-of-species requirement after having examined all claims of the application and after having received Applicant's challenge to the prima facie basis for the initial rejection" tantamount to a traversal. Accordingly, the examiner should have considered the election as an election with traverse and proceeded with the examination of claims 16-23 and withdrawn claim 24 as not being directed to the elected species. However, assuming arguendo that applicants' questioning of the appropriateness of the election-of-species is not a traversal, MPEP 818.03(c) clearly indicates that it is appropriate for the examiner to treat the election as an election without traverse and to proceed with the examination of claims 16-23.

Accordingly, the Notice of Non-Responsive Amendment is improper and hereby withdrawn. The application will be returned to the examiner for consideration of Applicants' election of species B, claims 16-23.

Any questions concerning this decision should be referred to Quality Assurance Specialist Teri Luu at (571) 272-7045.

Katherine Matecki

Katherine Matecki, Director
Technology Center 3600
(571) 272-5250

KM/tl: 03/22/11

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 5, 2011

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/560260 Patent No.: 7829524

CofC mailroom date: 12-24-10

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

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

Comments: The request regarding claim 72 need not be entered. (Claim 72 is correctly printed in the patent as claim 39).

/Manjunath Rao/ — SPE

1656 — Art Unit

United States Patent and Trademark Office

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

David S. Resnick
Nixon Peabody LLP
100 Summer Street
Boston MA 02110

MAILED

APR 05 2011

PCT LEGAL ADMINISTRATION

In re Application of:
PACHUK, et al.
Application No.: 10/560,377
PCT Appln. No.: PCT/US2004/019229
Int. Filing Date: 10 June 2004
Priority Date: 12 June 2003
Attorney Docket No.: 26788-024
For: CONSERVED HBV AND HCV SEQUENCES USEFUL FOR GENE SILENCING

DECISION

This decision is in response to the renewed petitions under 37 CFR 1.182 and 37 CFR 1.78 filed 09 September 2010 in the United States Patent and Trademark Office (USPTO). Applicant has provided payment of the appropriate petition fees.

BACKGROUND

On 30 July 2010, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.182 to convert the present U.S. National stage application filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a). A decision on the petition under 37 CFR 1.78 was held in abeyance pending resolution of any renewed petition under 37 CFR1.182.

On 09 September 2010, applicant filed the petitions discussed herein.

DISCUSSION

As detailed in the decision mailed 30 July 2010, while counsel requested that this application, intended as a continuation-in-part, be converted to an application under 35 U.S.C. 111(a). The situation presented in the instant case is analogous to the filing of a similar preliminary amendment or substitute specification in a request for a CPA or RCE, as discussed at MPEP 201.06(d). As such, it would not be appropriate to convert this application. Instead, under these circumstances, petitioner is required to file a petition under 37 CFR 1.182 identifying and requesting removal from the present application file of the specific "disclosure materials that differ from" those present in the international application, and requesting treatment of said materials being removed as a new (CIP) application filed under 35 U.S.C. 111(a). Any such petition should be accompanied by the appropriate filing fee payment for the application as filed under 35 U.S.C. 111(a), as well as any application papers which would be required to create a complete application file (e.g., specification, claims and drawings) for the 35 U.S.C. 111(a) application.

In the instant case, applicant has filed such a petition under 37 CFR 1.182, identifying the specific papers presently filed which are to be used in the newly-created application under 35 U.S.C. 111(a). However, applicant was advised that because a significant period of time had elapsed from the filing of the above-captioned application, before such petition could be granted, applicant was required to file a terminal disclaimer under the provisions of 37 CFR 1.321 (b) disclaiming the terminal part of the term of a patent to be granted equivalent to the period

between the filing date of a grantable petition under 37 CFR 1.182 to create the CIP application and the filing date under 35 U.S.C. 111 (a) of such application.

A review of the presently filed renewed petition and accompanying exhibits finds that applicant has provided the necessary terminal disclaimer disclaiming the terminal part of the term of a patent to be granted equivalent to the period between the filing date of a grantable petition under 37 CFR 1.182 to create the CIP application and the filing date under 35 U.S.C. 111 (a) of such application. As such, it is proper to grant applicant's renewed petition at this time and have the papers filed 04 December 2009 treated as a U.S. utility application under 35 U.S.C. 111 (a).

Applicant's newly created utility application is serial number 13/065,601. A copy of this decision will be placed in application 13/065,601 as well. Similarly, a decision on applicant's petition under 37 CFR 1.78 will be handled separately in that application.

Applicant is advised that the substitute specification and preliminary amendment to the claims in the 35 U.S.C. 111(a) application will not be entered as the changes were made relative to the international application and thus do not correspond with the specification and claims being used to created utility application 13/065,601.

CONCLUSION

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

This application is being returned to the Office of PCT Operations, National stage for continued processing.

The papers filed 04 December 2009 will be removed, along with the relevant fee payments to create utility application 13/065,601.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

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SCHLUMBERGER TECHNOLOGY CORPORATION
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SUGAR LAND TX 77478

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JAN 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Jacques Orban	:	
Application Number: 10/560391	:	ON PETITION
Filing Date: 04/11/2006	:	
Attorney Docket Number: 21.1179	:	
	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on November 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 10, 2010, for failure to timely submit the issue and publication fees, in response to the Notice of Allowance and Fee(s) Due mailed on July 9, 2010, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on October 22, 2010.

Receipt of the issue and publication fee is acknowledged.

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

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

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.
10/560,407	11/08/2006	Stephan Nees	LNK-038	5484

31496 7590 09/15/2010
SMITH PATENT CONSULTING, LLC
515 East Braddock Road
Suite B
ALEXANDRIA, VA 22314

EXAMINER
SAUCIER, SANDRA E

ART UNIT	PAPER NUMBER
1651	

NOTIFICATION DATE	DELIVERY MODE
09/15/2010	ELECTRONIC

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

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

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

chalin@smithpatent.com

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SEP 1 5 2010

SMITH PATENT CONSULTING, LLC
515 East Braddock Road
Suite B
ALEXANDRIA VA 22314

In re Application of:
Nees et al.
Serial No.: 10/560,407
Filed: November 8, 2006
Attorney Docket No.: **LNK-038**

DECISION ON PETITION TO REISSUE OFFICE ACTION

This is in response to applicants' petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on September 9, 2010, requesting reissuance of the final Office action of April 13, 2010 based on non-receipt of an Office action.

A review of the file history shows that the examiner electronically mailed a final Office action to applicants on April 13, 2010, setting a three-month statutory time period for reply.

Applicants' state that the Office action of April 13, 2010 was never received and provides as evidence thereof a copy of the USPTO E-Mail log where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicants never received the Office action. In view thereof, the final Office action of April 13, 2010 will be reissued with a new SSP.

Applicant' 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 at 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

25 AUG 2010

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RESEARCH TRIANGLE PARK NC 27709-3398

In re Application of GARCON et al.	
Application No.: 10/560,513	DECISION ON PETITION
Int. Filing Date: 14 June 2004	
Attorney Docket No.: VB60298	
For: POLYANIONIC POLYMER ADJUVANTS FOR HAEMOPHILUS INFLUENZA B SACCHARIDE VACCINES	

This is a decision on applicant's "Petition to Accept an Unintentionally Delayed Claim for the Benefit of a Prior-Filed Application", filed 26 May 2010, to accept a claim for foreign priority to United Kingdom application 0313916.9.

For reasons below, the petition is DISMISSED AS MOOT.

Applicant states that the specification for the above referenced application does not recite the claim of priority to the United Kingdom priority application. Applicant submits the instant petition in an "abundance of caution" in the event that a petition is required.

MPEP 1893.03(c) states, in relevant part,:

> Pursuant to 35 U.S.C. 365(b) a U.S. national stage application shall be entitled to a right of priority based on a prior foreign application or international application designating at least one country other than the United States in accordance with the conditions and requirements of 35 U.S.C. 119(a) and the treaty and the PCT regulations. See in particular PCT Article 8 and PCT Rules 4.10 and 26*bis*. To obtain priority in the U.S. national stage application to such applications, the priority must have been timely claimed in the international stage of the international application. See 37 CFR 1.55(a)(1)(ii). If the priority was properly claimed in the international stage of the international application, the claim for priority is acknowledged and the national stage application file is checked to see if the file contains a copy of the certified copy of the priority document submitted to the International Bureau.

In the present case, the priority claim to United Kingdom application 0313916.9 was timely made in international stage of the international application PCT/EP04/06426. Applicant requested national stage entry of PCT/EP04/06426 on 13 December 2005. A certified copy of the priority document provided by the International Bureau is found in the U.S. national stage application file. Thus, 10/560,513, i.e., the national stage of PCT/EP04/06426, is entitled to a right of priority based on United Kingdom application 0313916.9 without the need for a petition. Applicant should note that there is no requirement that a foreign priority claim be made in the specification. See 37 CFR 1.55(a).

Accordingly, the petition is **DISMISSED AS MOOT**.

The petition fee of $1410 will be refunded to applicant's deposit account.

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

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.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Inge Hansen	:	
Application No. 10/560,519	:	DECISION ON PETITION
Filed: March 20, 2006	:	
Attorney Docket No. **HOI-14302/16**	:	

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.

The petition is **GRANTED**.

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.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 1623 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: IDH HOLDING APS
Karensdalvej 76
7100 Vejle, Denmark

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APR 09 2012

OFFICE OF PETITIONS

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

In re Application of
Weiner, et al.
Application No. 10/560,650
Filed: May 9, 2006
Atty Docket No **133171.02001**

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the petition filed on March 12, 2012, which is being treated as a petition under 37 CFR 1.705(b) 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 forty-eight (48) days.

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

On December 12, 2011, a "Determination of Patent Term Adjustment under 35 U.S.C. 154(b)" was mailed indicating that the initial patent term adjustment is 0 days. The instant petition under 37 CFR 1.705(b) was filed on March 12, 2012, on that same day that the issue fee was paid. Petitioner asserts that the initial patent term adjustment is 48 days and states specifically that:

> ..the Office has failed to count any days as C-Delay even though all of the rejections were withdrawn after a Notice of Appeal and a Pre-Appeal Conference Request were filed. Accordingly, the days from July 22, 2010 (the date the Notice of Appeal and Pre Appeal Conference Request) to August 8, 2010 (day prior-to the re-opening prosecution), which is 48 days, should be counted as C-delay since the Appeal was successful.

Excerpt taken from "Request for Correction of Patent Term Adjustment under 37 CFR 1.705(b) or 37 CFR 1.705(d)", filed March 12, 2012, pg. 2.

Applicants' argument has been considered, but is not persuasive. Further to this point, it is noted that 35 U.S.C. 154(b)(1)(C)(iii) states:

> (C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS.—Subject to the limitation under paragraph (2), if the issue of an original patent is delayed due to--

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of pendency of the proceeding, order, or review as the case may be.

Further it is noted that 37 CFR 1.702(e) states, in pertinent part, that:

> [s]ubject 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 review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or a Federal court under 35 U.S.C. 141 or 145, of the patent was issued under a decision in the review reversing an adverse determination of patentability. If an application is remanded by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision by the Board of Patent Appeals and Interferences as that phrase is used in 35 U.S.C. 54(b)(1)(A)(iii), and a final decision in favor of the applicant under § 1.703(e).

Also, it is noted that "a decision by a pre-appeal brief conference panel to withdraw the rejections of any or all of the claims on appeal is not a decision by a panel of the Board of Patent Appeals and Interferences, and, as such, would not result in any patent term extension of adjustment under 35 U.S.C. Sec. 154(b) (37 CFR 1.701(a)(3) and 1.702(e))." *Pre-Appeal Brief Conference Pilot Program, 1296 OG 67 (July 12, 2005).*

A review of the record does not indicate that a successful appeal within the meaning of 35 U.S.C. 154(b)(1)(C)(iii) or 37 CFR 1.702(e) such that adjustment to the patent term pursuant to 37 CFR 1.702(e) and 1.703(e) or for "C" delay is warranted. It is noted that that 37 CFR 1.702(e) provides a circumstance where a remand of an application from the BPAI back to the examiner prior to the mailing of a notice is tantamount to a successful appeal, however, no such circumstance occurred in this instance.

In view thereof, no change will be made to the patent term adjustment of 0 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

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

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450

Alexandria, VA 22313-1450

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Patent No. 7,885,711 :
Issued: February 8, 2011 :
Application No.: 10/560,654 : NOTICE
Filed: May 1, 2006 :
Attorney Docket No: **75632/JPW/JW** :

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent No. 8,043,846	:
Irimia et al.	: DECISION ON REQUEST FOR
Issue Date: October 25, 2011	: RECONSIDERATION OF
Application No. 10/560,661	: PATENT TERM ADJUSTMENT
Filed: October 31, 2006	:
Attorney Docket No. 28970-	:
0683US1 / MGH 2347	:

This is a decision on the petition filed on December 27, 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 two hundred ninety (1,290) days.

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

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

BACKGROUND

On October 25, 2011, the above-identified application matured into U.S. Patent No. 8,043,846, with a revised patent term adjustment of 1,166 days. On December 27, 2011, patentee timely[1] submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,290 days. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the

[1] The 27th was the first business day after a federal holiday.

Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination on June 9, 2011) the Office mailed a Notice of Allowance on June 24, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 124 day period from June 24, 2011 (the mailing date of the Notice of Allowance) until October 25, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 124 days and be increased from 907 to 1,031 days.

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 or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the

national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" as 907 days pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) in this international application based on a national stage commencement date of December 13, 2005, and the patent not having issued as of the day after the three year date, December 14, 2008, and a request for continued examination under 132(b) having been filed on June 9, 2011. In other words, the entire 139-day period (including the 124 day period beginning on June 24, 2011) from the date of filing of the request for continued examination to the date of issuance of the patent 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)[2]. So, with respect to calculating the "B delay" where

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[2] 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

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 three-year period 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 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 requested by

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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.

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)," meaning that the limitations of paragraph 2 apply to this paragraph's extension 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 issuance 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 is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "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, 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 extensions 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 in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up 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. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which 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. 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 taken up with or any time consumed by clauses (i)-(iii), including 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 taken up with 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).

By nature, 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 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 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.

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 June 9, 2011, and the patent issued by virtue of that request on October 25, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 9, 2011 and ending on October 25, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, the patent term adjustment in the above-identified patent remains 1,290 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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/12/10 **Paper No.:** ____

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/526861 Patent No.: 7754841 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: _____

_____ 1765

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): 10/560,936	Patent Number (if applicable):
First Named Inventor: Kenzo TAKAHASHI	Title of Invention: ULTRAFINE GROUND TEA DISPERSION, AND FOOD OR BEVERAGE CONTAINING THE SAME

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 March 25, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED
APR 06 2011
OFFICE OF PETITIONS

In re Application of :
Kenzo TAKAHASHI et al. :
Application No. 10/560,936 : DECISION ON PETITION
Filed: May 16, 2006 :
Attorney Docket No.: 47234-5003-00 (219428) :

This is a decision on the request filed March 25, 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 October 8, 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 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 1781 for re-mailing the Office action of October 8, 2010. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 30 2010

OFFICE OF PETITIONS

ARENA PHARMACEUTICALS INC./FINNEGAN HENDERSON LLP
901 NEW YORK AVE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,704,993	: DECISION ON APPLICATION FOR
Issued: April 27, 2010	: PATENT TERM ADJUSTMENT
Application No. 10/561,071	:
Filing or 371(c) Date: May 26, 2006	:
Dkt. No.: 10426.0066-00000	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed June 25, 2010. This matter is being properly treated under 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,704,993 on April 27, 2010. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). The patent issued with a patent term adjustment of 612 days. This adjustment included 334 days of adjustment pursuant to 37 CFR 1.702(b).

Patentees assert that the patent is entitled to an overall adjustment of 614 days, including 336 days under 37 CFR 1.702(b).

Patentees' arguments have been carefully considered, but are not persuasive. A review of the record reveals that the Office properly accorded the application 334 days of adjustment pursuant to 37 CFR 1.702(b). The period of adjustment pursuant to 37 CFR 1.702(b) commenced December 20, 2008 and ended November 18, 2009 and totals 334 days.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of December 19, 2005. The requirements for early commencement under 35 USC 371(f) were not met in this application. Thus, as the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a weekend, the period expired on the subsequent business day. See, PCT Rule 80.5. Accordingly, the commencement date is December 19, 2005. Thus, the period of over three year delay commenced December 20, 2008, the day after the date that is three years after the date of commencement, and ended November 18, 2009, the day before the date that the request for continued examination was filed.

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, which began on December 20, 2008, ended November 18, 2009, the day before the RCE was filed, and not November 19, 2009, the day of filing of the RCE, as perhaps calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 334 days and not 336 days.

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

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

Receipt is hereby acknowledged of the $200.00 application 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

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.
10/561,194	16 December, 2005	NG ET AL.	L9289.05196

	EXAMINER	
James Edward Ledbetter 1875 Eye Street Suite 1200 Washington, DC 20006	NICK CORSARO	
	ART UNIT	PAPER
	2617	20120302

DATE MAILED:

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

Commissioner for Patents

The certificate of correction 02/25/2012 has bee approved:

Attached: SPE response.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/29/12

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10561194 Patent No.: 7843880

CofC mailroom date: 02/25/12

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
You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes to claim 2 be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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: All changes are approved. Changes to claim 2 are approved.

/Nick Corsaro/ — SPE AU 2617

SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 11/4/10

DATE : 11/2//10

TO SPE OF : ART UNIT 2621 (2600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/561,208 Patent No.: 7,796,863

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 THAO Q. TRAN SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2600 2400 ART UNIT 2484

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.
10/561,260	10/16/2006	John Colgrave	GB920030007US1	5696

75949 7590 09/08/2011
IBM CORPORATION
C/O: VanCott Bagley, Cornwall & McCarthy
36 South State Street
Suite 1900
Salt Lake City, UT 84111

EXAMINER
COPPOLA, JACOB C

ART UNIT	PAPER NUMBER
3621	

MAIL DATE	DELIVERY MODE
09/08/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 0 8 2011

IBM CORPORATION
C/O: VanCott Bagley, Cornwall & McCarthy
36 South State Street
Suite 1900
Salt Lake City UT 84111

In re application of John Colgrave Application No. 10/561,260 Filed: December 16, 2005 For: USER ACCESS TO A REGISTRY OF BUSINESS ENTITY DEFINITIONS	:	**DECISION ON PETITION UNDER 37 CFR § 1.181**

This is a decision on the petition filed under 37 CFR §1.181 on May 12, 2011 to request entry of the declarations filed on October 5, 2010.

The petition is **DISMISSED**.

A review of the file record reveals that responding to the non-final Office action dated February 19, 2010, applicant filed an amendment on May 18, 2010 arguing the indefiniteness rejection under 35 USC 112, second paragraph on the terms "business entity definition," "business service entity information element," "binding template information element," "technical model information element," and "business entity information element." A final Office action was mailed on August 4, 2010 in which the examiner repeated the indefiniteness rejection under 35 USC 112, second paragraph on said terms. In response to the final Office action, applicant filed a declaration on October 5, 2010 which includes four exhibits to provide evidentiary support for applicant's position that the disputed terms are well known in the art. Subsequently, applicant filed a notice of appeal on October 6, 2010 and an appeal brief on December 2, 2010. In an advisory action mailed on April 27, 2011, the examiner indicated that the declarations and exhibits have not been entered on the grounds that applicant failed to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented.

Applicant argues in the petition that the examiner has erred in refusing to enter the declaration/exhibits pursuant to 37 CFR 41.33 (d)(1) on the grounds that applicant has not provided good and sufficient reasons why the declaration is necessary and was not earlier presented, and in using the "advisory action before the filing of an appeal brief" form. Applicant also argues that entry of the declaration/exhibits is necessary for the pending appeal as the exhibits provide evidence that the rejection under 35 USC 112,

second paragraph is without basis, and the appeal brief has already referenced the declaration/exhibits extensively.

MPEP § 714.12 states that:

> *An affidavit or other evidence filed after a final rejection, but before or on the same date of filing an appeal, may be entered upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e).*

Rule 37 CFR § 1.116 (e) with regard to "Amendments and affidavits or other evidence after final action and prior to appeal" states that:

> *An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.*

MPEP § 714.13 (III) states that:

> *Advisory Action Before the Filing of an Appeal Brief form PTOL-303 should be used to acknowledge receipt of a reply from applicant after final rejection where such reply is prior to filing of an appeal brief and does not place the application in condition for allowance. This form has been devised to advise applicant of the disposition of the proposed amendments to the claims and of the effect of any argument or affidavit not placing the application in condition for allowance or which could not be made allowable by a telephone call to clear up minor matters.*

In response to applicant's argument that the examiner erred in refusing to enter the declaration/exhibits pursuant to 37 CFR 41.33 (d)(1), and in using the wrong advisory form, applicant is incorrect in asserting that the examiner has used the wrong advisory form. Since applicant filed a response to the final rejection before the filing of an appeal brief, it is appropriate to use the "*Advisory Action Before the Filing of an Appeal Brief*" form (PTOL-303) as dictated by MPEP § 714.13, section III cited above. On the other hand, applicant is correct in that rule 37 CFR 41.33 (d)(1) does not apply since the declaration/exhibits were filed on October 5, 2010 which was before the date of filing an appeal brief – the appeal brief was filed on December 2, 2010. The examiner made a mistake in checking box 9 on the advisory action. Since rule 37 CFR § 1.116(e) applies to a situation where the affidavit is filed after a final action but before or on the date of filing a notice of appeal, it is clear the box 8 should have been checked on the advisory action. However, the examiner's mistake in checking the wrong box on the advisory action does not excuse applicant from complying with the requirement of "a showing of good and good and sufficient reasons why the declaration/exhibits is necessary and was not earlier presented" as dictated by MPEP § 1.116 (e). Therefore, applicant's arguments are not persuasive. A review of the declaration/exhibits revealed that applicant provides no explanation why the declaration/exhibits is necessary and was not earlier presented.

In response to applicant's argument that the examiner has erred in refusing to enter the declaration/exhibits on the grounds that applicant has not provided good and sufficient reasons why the

declaration is necessary and was not earlier presented, it is noted that since the rejection under 35 USC 112, second paragraph was first made in the non-final Office action dated February 19, 2010, applicant could have provided the declaration/exhibits in his response to the non-final Office action and before the final Office action was issued. Applicant pointed out in the petition that in the amendment filed on May 18, 2010 applicant cited an online version of the UDDI Specification which clearly sets forth the meaning of the disputed terms. However, as correctly pointing out by the examiner in the final Office action of August 4, 2010 since the publication date of the cited online document is not known, the examiner cannot determine if the document is valid for establishing that the disputed terms is old and well known. Therefore, the examiner was correct in his determination that the cited online document was not sufficient to overcome the rejection under 35 USC 112, second paragraph. It is also worth pointing out that because the content of an online link/posting may be modified/updated over time, one should not rely on an online link to be valid evidence. Applicant also argues that the examiner specifically requested in the final Office action that applicant provide in the next response verifiable evidence on the record that the disputed terms are well known in the art. It is noted that the declaration/exhibits were submitted after the examiner repeated the rejection under 35 USC 112, second paragraph in the final Office action. As applicant chose to submit the declaration/exhibits as new evidence after the final rejection, he has to comply with the requirement set forth in MPEP § 1.116 (e) to have the declaration/exhibits entered into the record. Therefore, applicant's arguments are not persuasive.

To include evidence in the appeal proceedings, applicant must comply with the requirements of rule 37 C.F.R. § 41.37 (c)(1)(ix):

> *Evidence appendix . An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.*

It is clear from the advisory action dated April 27, 2011 that the declaration/exhibits have not been entered by the examiner. As such, these new evidence do not satisfy the requirements of 37 C.F.R. § 41.37 (c)(1)(ix) for consideration on appeal. In response to applicant's arguments that that entry of the declaration/exhibits is necessary for the pending appeal as the exhibits provide evidence that the rejection under 35 USC 112, second paragraph is without basis, and the appeal brief has already referenced the declaration/exhibits extensively, it is noted that new evidence cannot be introduced into the appeal proceeding without the examiner's approval for entry into the record as stated in 37 C.F.R. § 41.37 (c)(1)(ix). It is improper for applicant to introduce new evidence in the appeal brief when the new evidence did not meet the requirement set forth in MPEP § 1.116 (e) cited above, and the examiner has not had a chance to properly consider the evidence or approved its entry.

For the foregoing reasons, applicant's request to enter the declaration/exhibits into the record is dismissed as applicant failed to comply with the requirements set forth in MPEP § 1.116 (e) and 37 C.F.R. § 41.37 (c)(1)(ix).

Any questions regarding this letter should be directed to Quality Assurance Specialist Lanna Mai at (571) 272-6867.

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

lm: 8/22/11
LM

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PRINCETON NJ 08543-5312

MAILED

APR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
See et al.	:	
Application No. 10/561,360	:	DECISION ON PETITION
Filed: March 15, 2007	:	
Attorney Docket No. PA040025	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 non-final Office action mailed, July 9, 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 timely obtained. Accordingly, the application became abandoned on October 10, 2010. A Notice of Abandonment was mailed January 18, 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 $1,620.00, and (3) a proper statement of unintentional delay.

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

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 $130.00, one-month extension of time fee submitted with the petition on February 22, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 2187 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,414	12/19/2005	Alan David Borthwick	PB60267USW	1165

23347 7590 10/18/2010
GLAXOSMITHKLINE
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FIVE MOORE DR., PO BOX 13398
MAIL STOP: C.2111F
RESEARCH TRIANGLE PARK, NC 27709-3398

EXAMINER
NOLAN, JASON MICHAEL

ART UNIT	PAPER NUMBER
1626	

NOTIFICATION DATE	DELIVERY MODE
10/18/2010	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):

USCIPRTP@GSK.COM
ELAINE.X.MARTENS@GSK.COM
PATRICIA.T.WILSON@GSK.COM

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OCT 15 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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

In re Application of: SAKOH, N., et. al.
Application No. **10/561,414**
Filed: January 12, 2006
Docket No. 283098USPCT
Title: CONTENT ACQUISITION METHOD

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on September 10, 2010 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the PTO-1449 filed with the Information Disclosure Statements (IDS) on January 12, 2006.

The petition is **DISMISSED AS MOOT**.

A review of the file of instant application indicates that on October 12, 2010, the Office considered each of the references listed on the PTO-1449 above mentioned and that applicant was informed of such via a Supplemental Notice of Allowance. IDS filed with accompanied the above mentioned petition, provided an English translation to those references cited on IDS filed January 12, 2006. Since each of those references listed on the above mentioned IDS has been already considered, this petition is rendered moot. Image file wrapper (IFW) is available from Patent Application Information Retrieval (PAIR) system.

Accordingly, the petition is **DISMISSED AS MOOT**.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,414	12/19/2005	Alan David Borthwick	PB60267USW	1165

23347 7590 11/26/2010
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MAIL STOP: C.2111F
RESEARCH TRIANGLE PARK, NC 27709-3398

EXAMINER
NOLAN, JASON MICHAEL

ART UNIT	PAPER NUMBER
1626	

NOTIFICATION DATE	DELIVERY MODE
11/26/2010	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.

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ELAINE.X.MARTENS@GSK.COM
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Bradley D. Lytle
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of: SAKOH, N., et. al.
Application No. **10/561,414**
Filed: January 12, 2006
Docket No. 283098USPCT
Title: CONTENT ACQUISITION METHOD

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on September 10, 2010 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the PTO-1449 filed with the Information Disclosure Statements (IDS) on January 12, 2006.

The petition is **DISMISSED AS MOOT**.

A review of the file of instant application indicates that on November 24, 2010 and November 16, 2010, the Office considered each of the references listed on the PTO-1449 above mentioned and that applicant was informed of such via a Supplemental Notice of Allowance. Since each of those references listed on the above mentioned IDS has been already considered, this petition is rendered moot. Image file wrapper (IFW) is available from Patent Application Information Retrieval (PAIR) system.

Accordingly, the petition is **DISMISSED AS MOOT**.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
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OFFICE OF PETITIONS

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

In re Patent No. 8,015,267
Issued: September 6, 2011
Application No. 10/561,428
Filed: March 26, 2007
Attorney Docket No. 12587-0266US1 / A 6146US-hy

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on November 3, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 658 to 838 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of SIX HUNDRED EIGHTY NINE 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.

On September 6, 2011, the above-identified application matured into U.S. Patent No. 8,015,267 with a patent term adjustment of 658 days. On November 3, 2011, Patentees submitted the instant application.

Patentees dispute the reduction of 25 days for the response filed June 19, 2009. The USPTO mailed a non-Final Office Action to the applicants on February 25, 2009, setting a shortened statutory period of three months to reply. The three month response date fell on May 25, 2009, which was a Holiday. The applicants filed a response to the Office Action on June 19, 2009, and argues that the period of delay should be calculated from May 26, 2009, the next business day.

In Arqule v. Kappos, _ F.Supp.2d _ (D.D.C. 2011), the District Court of the District of Columbia ruled that the 35 U.S.C. § 21 (b) "weekend and holiday" exception applies to

"any action" including the § 154(b)(2)(C) Accordingly, because May 25, 2009 was a Holiday, the time period to calculate Applicant delay commenced on May 26, 2009 rather than May 25, 2009. Therefore, a delay of 25 days was accrued, corresponding to the time period between May 25, 2009 (three months after the mailing date of the Office Action, in accordance with 37 CFR §1.704(b)) and June 19, 2009. Applicants respectfully request the Office to remove the 25 days of Applicant delay and correct the total Applicant delay from 25 days to 24 days as it relates to 37 CFR §1.704(b)).

The reduction is being reconsidered and, based upon the decision in the Arqule case, it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted.

Thus, instead of a 25 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 24 days should have been accorded for applicant delay. Accordingly, the period of reduction of 25 days is being removed and a period of reduction of 24 days is being entered.

Patentees disclose that the patent term adjustment indicated on the front of the patent is incorrect because Applicant was accorded 1 day delay for a post-allowance filing. In good faith and candor, Patentees submit that the post-allowance filing of the Information Disclosure Statement should have been accorded a total Applicant Delay of 21 days for delay from June 9, 2011, to June 29, 2011 rather than 1 day, as indicated in the calculation. Patentees also disclose that the patent term adjustment indicated on the front of the patent is incorrect because Applicant filed an Amendment pursuant to 37 C.F.R. § 1.312 on July 6, 2011, subsequent to the mailing of the Notice of Allowance. The PTO mailed a response to the Amendment Pursuant to 37 C.F.R. § 1.312 on July 18,2011. Patentee was accorded a delay of 63 days for this post-allowance filing. Patentee respectfully submits that a period of 13 days is appropriate for delay under 37 C.F.R. § 1.704(c)(10), from July 6, 2011, to July 18,2011, and asks that the Office recalculate this period of Applicant Delay as 13 days. See 37 C.F.R. § 1.704(c)(10).

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 248 days (i.e., the sum of 24 days, 27 days, 119 days, 27 days, 17 days, 21 days, and 13 days).

Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on April 11, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 142 day period from April 11, 2011 (the

mailing date of the Notice of Allowance) until September 6, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 142 days and be increased from 740 to 849 days.

Patentee concludes that the correct patent term adjustment is 838 days (the sum of 221 days of "A delay" and 889 days of "B delay" minus 24 days overlap and minus 248 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

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

The 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

Patentees argues that for the filing of the Information Disclosure Statement on June 9, 2009 should have been accorded Applicant delay in the amount of 21 days for delay from June 9, 2011, to June 29, 2011 rather than 1 day for the post-allowance filing. Patentees also argue that an Amendment pursuant to 37 C.F.R. § 1.312 was filed on July 6, 2011, and that the PTO mailed a response to the Amendment pursuant to 37 C.F.R. § 1.312 on July 18, 2011. Patentee was accorded a delay of 63 days for this post-allowance filing rather than 13 days, and asks that the Office recalculate this period of Applicant Delay as 13 days. See 37 C.F.R. § 1.704(c)(10).

Applicant's arguments have been considered. The patent incorrectly shows a reduction of 1 day, rather than 21 days for applicants' filing of the Information Disclosure Statement pursuant to 37 C.F.R. § 1.704(c)(10) after the mailing of the notice of allowance. Further, as stated by the patentees, the period from the date the Amendment pursuant to 37 C.F.R. § 1.312 was received to the date the response was mailed is 13 days, not 63 days.

For the filing of the Information Disclosure Statement on June 9, 2011, a delay of 1 day is being removed and 21 days is being entered pursuant to 37 CFR § 1.704(c)(10). For the Amendment pursuant to 37 C.F.R. § 1.312, filed on July 6, 2011, a period of reduction of 63 days is being removed and a period of 13 days will be entered pursuant to 37 CFR § 1.704(c)(10).

As it relates to the calculation of "B delay, Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 764 days based on the application having been filed under 35 U.S.C. 371(b) or (f), the national stage having commenced December 19, 2005 and the patent not having issued as of the day after the three year date, December 19, 2008, and a request for continued examination under 132(b) having been filed on December 30, 2010. In other words, the 142-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the

[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.

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, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or

uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 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

[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.

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 December 30, 2010 and the patent issued by virtue of that request on September 6, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on December 30, 2010 and ending on September 6, 2011 is not included in calculating Office delay.

CONCLUSION

As such, the patent term adjustment is 689 days (221 "A delay" days plus 740 "B delay" days minus 24 days overlap minus 248 Applicant delay days), not 838 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred eighty nine (689)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,015,267 B2

DATED : September 6, 2011

INVENTOR(S) : Dipan Patel

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 (658) days

Delete the phrase "by 658 days" and insert – by 689 days--

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Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001

MAILED
MAR 16 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
GROVER, Raymond	:	
Application No.: 10/561,531	:	
PCT No.: PCT/IB2004/001779	:	
Int. Filing Date: 21 May 2004	:	PETITION UNDER
Priority Date: 31 May 2003	:	
Attorney's Docket No.: GB030081US1	:	
For: SEMICONDUCTOR DEVICE HAVING...	:	
OF MANUFACTURE THEREOF	:	37 CFR 1.181

This Decision is in response to applicant's "PETITION TO WITHDRAW ABANDONMENT UNDER MPEP SECTION 711.03(c)" filed on 04 December 2007, which is being treating as a petition under 37 CFR 1.181 requesting that the above-identified application's declaration was timely filed on July 31, 2006 by facsimile.

BACKGROUND

In a decision from this Office on 19 May 2006, the petition to revive was granted.

On 06 July 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date." To avoid abandonment, the above items must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 30 November 2007, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since the applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 07/06/2009 within the time period set therein.

On 04 December 2007, petitioner submitted the instant petition stating that the declaration was allegedly timely filed by facsimile on 31 July 2006.

DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants have satisfied items (1), and (3) but not item (2) under 37 CFR 1.8(b).

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence and certificate of transmission.

With regard to item (3) above, section 512 of the MPEP states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission." The present petition, which is signed by Peter Zawilski, states that the response was timely transmitted by facsimile. However, Mr. Zawilski is not the person who executed the Certificate of Transmission for the 31 July 2006 transmission, and he does not state "how he has firsthand knowledge of the previous mailing or transmission," as required by the MPEP (the petition does not include a confirming statement from Vihmana Naga, the person who signed the Certificate of Transmission).

Based on the above, the present submission does not satisfy the requirement of 37 CFR 1.8(b)(3). Accordingly, on the present record it cannot be concluded that the declaration was included with the present petition were originally filed by facsimile on 31 July 2006 as a timely response to the Notification Of Missing Requirements.

CONCLUSION

For the reasons discussed above, applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 and 1.8(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above and in the MPEP. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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Briarcliff Manor, NY 10510-8001

MAILED
AUG 17 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
GROVER, Raymond	:	
Application No.: 10/561,531	:	
PCT No.: PCT/IB2004/001779	:	
Int. Filing Date: 21 May 2004	:	PETITION UNDER
Priority Date: 31 May 2003	:	
Attorney's Docket No.: GB030081US1	:	
For: SEMICONDUCTOR DEVICE HAVING...	:	
OF MANUFACTURE THEREOF	:	37 CFR 1.181

This Decision is in response to applicants' "PETITION IN RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.181(a)" filed on 17 June 2011, which requests that the above-identified application's declaration was timely filed, and the withdrawal of the Notice of Abandonment mailed on 30 November 2007.

BACKGROUND

In a decision from this on Office on 16 March 2011, the petition filed under 37 CFR 1.181 was dismissed. The decision stated that applicants did not meet item (3) under 37 CFR 1.8(b) because no statement was provided from a person that had first hand knowledge.

On 17 June 2011, applicants filed the current renewed petition with included a statement from Vilimaina Naga.

DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants have now satisfied item (3), thus satisfying items (1) – (3) under 37 CFR 1.8(b).

The certificate of facsimile under 37 CFR 1.8 is valid for the declaration because a statement has been provided by Vilimaina Naga and the declaration can be used as a basis for a timely filing in response to the Notification of Missing Requirements mailed on 06 July 2006.

Accordingly, applicants' response- the declaration filed on **31 July 2006**- is considered timely and is the date of receipt at USPTO.

The date of receipt for the Declaration is 31 July 2006.

CONCLUSION

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

The NOTICE OF ABANDONMENT, mailed 30 November 2007 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **31 July 2006**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
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5 AUG 2010

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of CLAYTON et al.	:	
Application No.: 10/561,713	:	DECISION
PCT No.: PCT/GB04/02707	:	
Int. Filing: 23 June 2004	:	
Priority Date: 23 June 2003	:	
Attorney Docket No.: 5585-72843-01	:	
For: INFLAMMATORY DISEASE TREATMENT	:	

On 30 July 2010, a Notification of Abandonment was mailed in the above referenced application.

In light of the 17 January 2008 decision granting applicant's petition under 37 CFR 1.47(a) in the above captioned application, the Notification of Abandonment mailed on 30 July 2010 was mailed in error and is hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 07 November 2006.

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

Telephone: (571) 272-3286
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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,752	01/26/2006	Anthony Bruce Pike	2163-2 PCT/US/RCE	1633

23869 7590 09/02/2011
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

EXAMINER
NELSON, KERI JESSICA

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
09/02/2011	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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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

In re Application of: PIKE, ANTHONY BRUCE Serial No. 10/561,752 Filed: Dec. 21, 2005 Docket: 2163-2 PCT/US/RCE Title: MEDICAL PROTECTION SHEETING	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the request filed July 18, 2011 under 37 CFR 1.181 requesting withdrawal of the Requirement for Information Under Rule 105 as stated in the last Office action mailed May 18, 2011.

The petition is dismissed as moot.

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the Requirement for Information under Rule 105 as stated in the last Office actions issued on May 18, 2011 is moot and hereby withdrawn. The Office will accept the applicant's original response filed on March 27, 2009 and the statements made in the current petition as a complete response to the Rule 105 Requirement of November 14, 2008. However, this decision will not disturb any rejections made by the examiner because any adverse patentability decision on claims is an appealable matter.

Since the Rule 105 Requirement is being withdrawn, the application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit 3772 awaiting the applicant's response to the outstanding Office action mailed on May 18, 2011. Any inquiry regarding this decision should be directed to Henry C. Yuen, Supervisory Patent Examiner, at (571) 272-4856.

PETITION DISMISSED.

Donald T. Hajec, Director
Technology Center 3700

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)
7175702	2007-02-13	10/561,958	2005-12-22	110011

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William G. Kratz, Jr./	Date (YYYY-MM-DD)	2011-04-13
Name	William G. Kratz, Jr.	Registration Number	22631

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. 7175702
Issue Date: February 13,2007
Application No. 10561958
Filed: December 22,2005
Attorney Docket No. 101190-00052

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

This is a decision on the electronic petition, filed April 13,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 13,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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NIXON & VANDERHYE, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Pasquale Strasso	:	
Application No. 10/562,199	:	DECISION ON PETITION
Filed: March 20, 2006	:	TO WITHDRAW
Attorney Docket No. PTB-5735-2	:	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, 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. 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 Paul T. Bowen on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 2, 2011 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Mr. Pasquale Strasso**
Tescol srl, Via Cornelio Magni, 41/b
Rome, Italy 00147

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/562,199	03/20/2006	Pasquale Strasso	PTB-5735-2

CONFIRMATION NO. 4123

POWER OF ATTORNEY NOTICE

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

OC000000051694774

Date Mailed: 12/28/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/08/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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: MULL3009/FJD	Patent Number: 7665357
Filing Date (or 371(b) or (f) Date): 2005-12-23	Issue Date: 2010-02-23
First Named Inventor: Alexander Mueller	
Title: ACCRETION ALARM FOR FIELD DEVICES	

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 2010-08-20
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: 09/14/2010

Applicant	: Alexander Mueller	: DECISION ON REQUEST FOR
Patent Number	: 7665357	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/562,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **652** 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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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

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SEP 14 2010

OFFICE OF PETITIONS

In re Application of
GARCIA-RODENAS, Clara L. et al.
Application No. 10/562,243
Filed: December 22, 2005
Attorney Docket No. **3712036.00694**

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 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 April 17, 2009, which set a shortened statutory period for reply of three (3) months. A three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of April 17, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1645 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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C/O PAT. OFFICE, BANGSHIA
102 LINDENCREST
SUGAR LAND TX 77479

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MAR 12 2012

OFFICE OF PETITIONS

In re Application of :
Runlin He :
Application No. 10/562,357 : ON PETITION
Filed: December 27, 2005 :
Attorney Docket No. SW-971217 (SW-01) :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 6, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed August 16, 2010 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed March 1, 2011.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2889 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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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GERON CORPORATION
Attn. David J. Earp
230 CONSTITUTION DRIVE
MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
HARLEY et al.	:	DECISION ON APPLICATION
Application No. 10/562,374	:	FOR
Filed: 03/09/2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 510/002	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION, filed March 10, 2010, which is being treated as a petition under 37 CFR 1.705(b). Applicants request correction of the patent term adjustment from three hundred sixty-seven (367) days to four hundred forty-seven (447) days partly on the basis of the Office taking in excess of three years to issue the 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 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 the instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the Notice of Allowance, the request is **GRANTED TO THE EXTENT INDICATED**.

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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 PALM and PAIR screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **twenty-two (22) days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

A review of the application history confirms that applicants' characterization of the basis for and the amount of reduction of three hundred forty-five (345) days of patent term in this application at the time of the mailing of the notice of allowance are proper.

In view thereof, the corrected determination of patent term adjustment at the time of the mailing of the notice of allowance is **twenty-two (22) days** (367 days of Office delay - 345 days of applicant delay).

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 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 REVISED PAIR Screen

10/562,374	COMPOSITIONS AND METHODS FOR INCREASING TELOMERASE ACTIVITY	10-28-2010::10:44:32

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/562,374

Filing or 371(c) Date:	03-09-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	367
A Delays:	367	PTO Manual Adjustments:	-345
B Delays:	0	Applicant Delays:	0
C Delays:	0	Total PTA Adjustments:	22

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
90	10-28-2010	Adjustment of PTA Calculation by PTO		132	0
89	10-28-2010	Adjustment of PTA Calculation by PTO		183	0
88	10-28-2010	Adjustment of PTA Calculation by PTO		30	0
70	12-11-2009	Mail Notice of Allowance	11		49
69	12-09-2009	Information Disclosure Statement (IDS) Filed			0
68	12-07-2009	Document Verification			0
67	12-07-2009	Notice of Allowance Data Verification Completed			0
66	12-07-2009	Case Docketed to Examiner in GAU			0
65	12-01-2009	Examiner Interview Summary Record (PTOL - 413)			0
64	12-02-2009	Examiner's Amendment Communication			0
63	12-02-2009	Notice of Allowability			0
60	11-03-2009	Information Disclosure Statement considered			0
59	07-30-2009	Information Disclosure Statement considered			0
57	11-03-2009	Information Disclosure Statement (IDS) Filed			0
56	03-11-2009	Reference capture on IDS			0
55	03-10-2009	Information Disclosure Statement (IDS) Filed			0
54	09-29-2009	Change in Power of Attorney (May Include Associate POA)			0
53	03-13-2009	Information Disclosure Statement (IDS) Filed			0

52	09-25-2009	Correspondence Address Change			0
51	07-30-2009	Information Disclosure Statement (IDS) Filed		0	49
50	09-23-2009	Date Forwarded to Examiner			0
49	07-30-2009	Response after Non-Final Action			0
48	09-18-2009	Change in Power of Attorney (May Include Associate POA)			0
47	08-26-2009	Mail-Petition Decision - Granted			0
46	08-26-2009	Petition Decision - Granted			0
45	08-25-2009	Correspondence Address Change			0
44	07-30-2009	Information Disclosure Statement (IDS) Filed			0
43	06-25-2009	Petition Entered			0
42	04-30-2009	Mail Non-Final Rejection	356		18
41	04-27-2009	Non-Final Rejection			0
40	03-11-2009	Information Disclosure Statement considered			0
39	10-30-2008	Information Disclosure Statement considered			0
38	03-13-2009	Information Disclosure Statement considered			0
35	03-13-2009	Information Disclosure Statement (IDS) Filed			0
34	03-11-2009	Information Disclosure Statement (IDS) Filed			0
31	10-30-2008	Reference capture on IDS			0
30	10-30-2008	Information Disclosure Statement (IDS) Filed			0
29	10-30-2008	Information Disclosure Statement (IDS) Filed			0
27	07-23-2008	Change in Power of Attorney (May Include Associate POA)			0
26	07-23-2008	Case Docketed to Examiner in GAU			0
25	07-23-2008	Correspondence Address Change			0
24	07-02-2008	IFW TSS Processing by Tech Center Complete			0
23	07-23-2007	Miscellaneous Incoming Letter			0

20	05-15-2008	PG-Pub Issue Notification	0
19	02-19-2008	Application Dispatched from OIPE	0
18	03-09-2007	371 Completion Date	0
17	02-11-2008	Sent to Classification Contractor	0
16	02-11-2008	Notice of DO/EO Acceptance Mailed	0
15	02-11-2008	Filing Receipt	0
14	03-09-2007	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
13	03-09-2007	CRF Disk Has Been Received by Preexam / Group / PCT	0
12	03-09-2007	Additional Application Filing Fees	0
11	03-09-2007	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
9	07-23-2007	Mail-Petition Decision - Granted	0
8	03-09-2007	Petition Entered	0

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AND POPEO, P.C
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BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of	:	
KUBO et al.	:	
Application No. 10/562,564	:	DECISION ON PETITION
Filed: 12/27/2005	:	
Attorney Docket No. 42463-503N01US	:	

This is a decision on the petition under 37 CFR 1.182 filed November 17, 2011.

Applicants request that the Office withdraw the previously filed terminal disclaimer submitted on September 1, 2011.

As the examiner has concurred, the requested relief can be favorably considered. Accordingly, the petition is **granted**. The terminal disclaimer, filed September 1, 2011, is hereby withdrawn.

The Office acknowledges the payment of the $400.00 petition fee.

This matter is being referred to Technology Center Art Unit 3765 for correction of PALM and the file records consistent with this decision.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/11/10

TO SPE OF : ART UNIT 1797 (1700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/562,603 Patent No.: 7,628,843

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.

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

ok to enter

SPE /Duane Smith/ SPE AU1776 **ART UNIT** 1776

UNITED STATES 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 2010
OFFICE OF PETITIONS

In re Application of Fraleu et al. :
Application No. 10/562,663 : Decision on Petition
Filing Date: March 20, 2007 :
Attorney Docket No. PF030101 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 14, 2009, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 15, 2009. A Notice of Abandonment was mailed on April 7, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the outstanding Office action in the form of an amendment. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated 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 has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2427 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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): 10/562,716	Patent Number (if applicable):
First Named Inventor: Yoshiyuki ISHIKURA	Title of Invention: PREVENTIVE OR AMELIORATING AGENT FOR LIVER DISEASE INVOLVING HEPATOPATHY

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Ishikura et al.	:	
Application No. 10/562,716	:	DECISION ON PETITION
Filed: January 23, 2006	:	
Attorney Docket No. 47237-5022-00 (412785)	:	

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 27, 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 1629 for re-mailing the Office action of December 27, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120402

DATE : April 05, 2012

TO SPE OF : ART UNIT 1647

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

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

☐ **Denied** State the reasons for denial below.

Comments:

/RAM R SHUKLA/
Supervisory Patent Examiner.Art Unit 1647

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/04/2010

Applicant	: Kjell Olav Stinessen	: DECISION ON REQUEST FOR
Patent Number	: 7654328	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/562,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **856** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,183,535	2007-02-27	10/562,864	2005-12-29	66551-0001

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	/Alexander D. Rabinovich/	Date (YYYY-MM-DD)	2011-03-02
Name	Alexander D. Rabinovich	Registration Number	37425

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. 7183535
Issue Date: February 27,2007
Application No. 10562864
Filed: December 29,2005
Attorney Docket No. 66551-0001

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

This is a decision on the electronic petition, filed March 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 March 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

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.
10/562,869	04/07/2006	Walter Fix	411000-144	6418

27162 7590 04/13/2012
CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO
5 BECKER FARM ROAD
ROSELAND, NJ 07068

EXAMINER
MONTALVO, EVA Y

ART UNIT	PAPER NUMBER
2814	

MAIL DATE	DELIVERY MODE
04/13/2012	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

William Squire
Carella, Byrne, Cecchi, Olstein, Brody & Agnello
5 Becker Farm Road
Roseland, NJ 07068

In re Application of:	:	
Walter Fix et al.	:	DECISION ON PETITION
Serial No.: 10/562869	:	Under 37 CFR § 1.181
Filed: April 7, 2006	:	
Attorney Docket No.: **414000-144**	:	

This is a decision on the petition filed on February 1, 2010 requesting that the finality of the Office action mailed on December 28, 2009 be withdrawn and the period for response restarted.

The petition is **Dismissed as Moot**.

In reviewing the file it was noted that the interview summary mailed March 22, 2010 indicated that the prior Final Rejection mailed December 28, 2009 would be withdrawn. Additionally, it is noted that the examiner drafted and mailed out a new action on July 16, 2010 in accordance with the interview summary.

Consequently, as the finality of the Office action mailed on December 28, 2010 was withdrawn, the applicant's request at the present time has been rendered moot. Prosecution on the application continued wherein the applicant eventually filed a Notice of Appeal, Brief and Reply Brief. The present status of the application is awaiting a final disposition by the Board of Patent Appeals and Interferences.

Should applicant have inquiries regarding this decision should be directed to Wael Fahmy, Supervisory Patent Examiner, at (571) 272-1705.

Jack Harvey, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 9, 2012

TO SPE OF : ART UNIT 3633 SPE Brian Glessner.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/563,026 Patent No.: 7,984,236 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 Abstract be amended as requested by applicant?
See COCIN dated 12-13-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

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

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

Comments: _____

SPE Brian Gl **Art Unit** 3633

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Application of :
Harrold et al. :
Application Number: 10/563,121 :
Filing Date: 01/03/2006 :
Attorney Docket Number: 250152-1820 :

ON PETITION

This is a decision in reference to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed on February 21, 2011.

The petition is **granted**.

This application was held abandoned on November 8, 2010, for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) "Notice" mailed on October 7, 2010, which set a one (1) month shortened period for reply. No reply having been received, Notice of Abandonment was mailed on February 15, 2011.

Petitioners' registered patent practitioner, Daniel R. McClure, asserts that the Notice mailed on October 7, 2010 was never received. A copy of the docket report and file jacket where the non-received Notice would have been docketed and entered had it been received have been supplied with the petition. Petitioner's counsel further asserts that no master docket exists.

A review of the record indicates no irregularity in the mailing of the Notice mailed on October 7, 2010, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice mailed on October 7, 2010 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice mailed on October 7, 2010, was not in fact received.

Petitioners have made a sufficient showing that the Notice mailed on October 7, 2010, was not received.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As a response to the Notice mailed on October 7, 2010 was filed with the subject petition, there is no need to remail the Notice mailed on October 7, 2010. Rather the application is referred to Technology Center Art Unit 2622 for further processing.

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

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-31-11

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/563136 Patent No.: 7832510

CofC mailroom date: 03-22-11

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

A. Green

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: _____

SPE _____ **Art Unit** 3618

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

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application :
Levy :
Application No. 10/563,207 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: April 19, 2006 :
Dkt. No.: 3165-140 :

This is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER," filed March 1, 2010. This matter is being properly treated under 37 CFR 1.705(b).

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 285 days, not 213 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed February 17, 2010. Applicants contest the adjustment of 207 days under 37 CFR 1.702(a)(1) and assert that the correct period of adjustment in this regard is 279 days.

A review of the record reveals that the instant application fulfilled the requirements of 35 USC 371 on April 19, 2006, the date the last of the requirements under 35 USC 371(c) were met by submission of a declaration. Accordingly, the period of adjustment pursuant to 37 CFR 1.703(a)(1) commenced June 20, 2007, the day after the date that is 14 months after the date that the application fulfilled the requirements of 35 USC 371, and ended March 24, 2008, the date that the non-final Office action was mailed, or 279 days.

In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 285 days, as argued, (302 days of adjustment pursuant to 37 CFR 1.702 less 17 days of reduction pursuant to 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
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Monday
Date: 7/26/2010

PALM INTRANET

Time: 14:02:28

PTA Calculations for Application: 10/563207			
Application Filing Date:	06/30/2006	PTO Delay (PTO):	230
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	17
Post-Issue Petitions:	0	Total PTA (days):	285
PTO Delay Adjustment:	72		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	07/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	279		
64	07/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		207	
55	02/17/2010	MAIL NOTICE OF ALLOWANCE			
54	02/04/2010	ISSUE REVISION COMPLETED			
53	02/04/2010	DOCUMENT VERIFICATION			
52	02/04/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	02/04/2010	CASE DOCKETED TO EXAMINER IN GAU			
50	01/25/2010	NOTICE OF ALLOWABILITY			
49	11/30/2009	ELECTRONIC REVIEW			
48	11/30/2009	EMAIL NOTIFICATION			
47	11/30/2009	EMAIL NOTIFICATION			
46	11/30/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
45	11/30/2009	MAIL NON-FINAL REJECTION	23		41
44	11/23/2009	NON-FINAL REJECTION			
43	11/20/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	09/14/2009	DATE FORWARDED TO EXAMINER			
41	07/07/2009	RESPONSE AFTER NON-FINAL ACTION		17	37
40	07/07/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	03/20/2009	ELECTRONIC REVIEW			
38	03/20/2009	EMAIL NOTIFICATION			
37	03/20/2009	MAIL NON-FINAL REJECTION			
36	03/16/2009	NON-FINAL REJECTION			
35	01/12/2009	DATE FORWARDED TO EXAMINER			
34	01/07/2009	AMENDMENT AFTER FINAL REJECTION			

33	10/10/2008	ELECTRONIC REVIEW			
32	10/10/2008	EMAIL NOTIFICATION			
31	10/09/2008	MAIL FINAL REJECTION (PTOL - 326)			
30	10/01/2008	FINAL REJECTION			
29	06/23/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
28	07/22/2008	DATE FORWARDED TO EXAMINER			
27	06/23/2008	RESPONSE AFTER NON-FINAL ACTION			
26	03/25/2008	ELECTRONIC REVIEW			
25	03/24/2008	EMAIL NOTIFICATION			
24	03/24/2008	MAIL NON-FINAL REJECTION	207		8
23	03/17/2008	NON-FINAL REJECTION			
16	08/09/2007	PG-PUB ISSUE NOTIFICATION			
15	06/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	05/23/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	05/15/2007	APPLICATION DISPATCHED FROM OIPE			
8	06/30/2006	371 COMPLETION DATE			
7	05/01/2007	SENT TO CLASSIFICATION CONTRACTOR			
6	05/01/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	06/30/2006	ADDITIONAL APPLICATION FILING FEES			
4	06/30/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Trygve Burchardt :
Application No. 10/563,290 : DECISION ON PETITION
Filed: May 09, 2006 :
Attorney Docket No. **BRYN/0012** :

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 non-final Office action mailed, August 21, 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 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 the corrected drawings and an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of August 21, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1795 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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BANK OF AMERICA PLAZA
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CHARLOTTE, NC 28280-4000

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DEC 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Kianoush Namvar	:	
Application No. 10/563,396	:	DECISION ON PETITION
Filed: October 19, 2007	:	TO WITHDRAW
Attorney Docket No. 052436/306036	:	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 22, 2010.

The request is **APPROVED**.

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

The request was signed by Chad L. Thorson on behalf of all attorneys of record who are associated with customer No. 00826. All attorneys/agents associated with the Customer Number 00826 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 an outstanding Office action mailed June 28, 2010 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 the examination or status of this application should be directed to the Technology Center.

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

cc: KIANOUSH NAMVAR
TRODHEIMSGATAN 48
KISTA SE-164 30
SWEDEN

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/563,396	10/19/2007	Kianoush Namvar	052436/306036

CONFIRMATION NO. 3013

POWER OF ATTORNEY NOTICE

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

OC000000045088406

Date Mailed: 12/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/22/2010.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KIANOUSH NAMVAR
TRODEHIMSGATAN 48
KISTA SE-16-4 30 SE SWEDEN

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Kianoush Namvar	:	
Application No. 10/563,396	:	DECISION ON PETITION
Filed: October 19, 2007	:	
Title: Signal Transmission Management System	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, June 28, 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 September 29, 2010. A Notice of Abandonment was mailed January 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2425 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions