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SEP 28 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,616,321
Issued: November 10, 2009
Application No. 10/615,279
Filed: July 8, 2003
Attorney Docket No. 3619-140

: 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 TO CORRECT PATENT TERM ADJUSTMENT" filed January 11, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 1184 days to 1363 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 three hundred sixty-eight (368) days is **GRANTED to the extent indicated herein**.

Patentee has miscalculated the total patent term adjustment as patentee's calculation fails to take into account that Notices of Appeal were filed September 16, 2005, August 21, 2006, February 4, 2008 and January 26, 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 741 days, beginning on September 16, 2005 and ending on January 9, 2006, beginning on August 21, 2006 and ending on March 7, 2007, beginning on February 4, 2008 and ending on October 30, 2008, beginning January 26, 2009 and ending on June 30, 2009. The Office has also determined that the period of overlap is 75 days. Thus, B delay is 75 (891 minus 741 minus 75) days. (The 891 days accorded at issuance was for B delay. The 891 days is being removed and corrected to 75 days). As such, the patent term adjustment is 368 (330 "A delay" days, plus 75 "B delay" days, minus 37 applicant delay days) not 1363.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to the credit card provided.

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 **three hundred sixty-eight (368)** 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 : 7,616,321 B2

DATED : November 10, 2009

INVENTOR(S) : Jeff Korn

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 (1184) days

Delete the phrase "by 1184 days" and insert – by 368 days--

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BEYER LAW GROUP LLP
P.O. BOX 1687
CUPERTINO, CA 95015-1687

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,366,149
Issue Date: April 29, 2008
Application No. 10/615,285 : NOTICE
Filed: July 7, 2003 :
Attorney Docket No. MES1P076/PF10I345/RCE1-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

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

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of
Takashi Ishidoshiro
Patent No. 7,289,631
Issued: October 30, 2007
Application No. 10/615,286
Filed: July 7, 2003
Attorney Docket No. **MES1P074**

NOTICE

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

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

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

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 Steve D. Beyer 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, Steven D. Beyer desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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ORGANOGENESIS, INC.
150 DAN ROAD
CANTON MA 02021

MAILED
SEP 07 2010
OFFICE OF PETITIONS

Patent No. 6,893,653	:	
Application No. 10/615,623	:	
Filed: July 8, 2003	:	ON PETITION
Issued: May 17, 2005	:	
Attorney Docket No. 68603-489CN2	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 5, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued May 17, 2005. The last day of the grace period for paying the 3.5-year maintenance fee was May 17, 2009. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

The patent file is being forwarded to Files Repository.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAILED

AUG 16 2010

OFFICE OF PETITIONS

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

In re Moe et al.	:	DECISION ON REQUEST
Patent No. 7,588,212	:	FOR
Issue Date: September 15, 2009	:	RECONSIDERATION OF
Application No. 10/615,673	:	PATENT TERM ADJUSTMENT
Filed: July 8, 2003	:	and
Atty Docket No. 104874-142119	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the REPLY TO DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH, filed on May 17, 2010. Patentees assert the April 20, 2010 dismissal of patentees' Request for Recalculation of Patent Term Adjustment in View of Wyeth, filed on March 19, 2010 (certificate of mailing date March 15, 2010) was in error and request recalculation of the patent term adjustment indicated on the patent.

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

The Request for Recalculation of Patent Term Adjustment in View of Wyeth, filed on March 19, 2010, was filed within 180 days of the September 15, 2009 date of issuance of the patent because it was filed utilizing certificate of mailing practice. The certificate of mailing affixed to the transmittal letter for the correspondence lists March 15, 2010 as the date of deposit. Under 37 CFR 1.8, the request for recalculation is considered to have been filed on March 15, 2010. The 180 day deadline to file the request for recalculation fell on a Sunday, March 14, 2010. March 15, 2010 was the first business day after the deadline. Therefore, the request for recalculation was timely filed and should not have been dismissed.

The B delay period is 179 days. The maximum B delay period is calculated beginning on July 9, 2006, the day after three years after the application was filed, and ending on September 15,

2009, the date of issuance of the patent, and is 1165 days. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 986 day period beginning on July 9, 2006, the date the Notice of Appeal was filed, and ending on March 20, 2009, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner. Excluding the 986 days consumed by appellate review results in a period of B delay of 179 days (1165 - 986).

Although the 986 days consumed by appellate review that overlaps with the period of B delay is not part of the period of B delay, the total period of successful appellate review does constitute delay under 35 U.S.C. 154(b)(1)(C) ("C delay"). In other words, the successful appellate period of 1325 days is counted against the Office as a separate adjustment pursuant to 37 CFR 1.702(e) as C delay.

The patent term adjustment is 1396 days, which is the sum of 0 days of A delay and 179 days of B delay and 1325 days of C delay reduced by 108 days of patentees' 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.

No fee will be charged in connection with this matter because the Office should have addressed patentees' Request for Recalculation of Patent Term Adjustment in View of Wyeth, filed on March 19, 2010 (certificate of mailing date March 15, 2010).

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 three hundred ninety-six (1396)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,588,212 B2

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

INVENTOR(S) : Moe 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 1217 days

Delete the phrase "by 1217 days" and insert – by 1396 days--

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KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER
SUITE 1600
121 S. W. SALMON STREET
PORTLAND OR 97204

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,235,232	:	
Issue Date: June 26, 2007	:	
Application No. 10/615,723	:	DECISION ON PETITION
Filed: July 08, 2003	:	
Attorney Docket No. 4239-64129	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 12, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 26, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **PATRICK P. MCCUE, PH.D.**
6011 EXECUTIVE BLVD, SUITE 325
ROCKVILLE, MD 20852

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J. MICHAEL NEARY
53939 PINE GROVE ROAD
LAPINE OR 97739

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,105,979	:	
Issue Date: September 12, 2006	:	
Application No. 10/615,758	:	DECISION ON PETITION
Filed: July 08, 2003	:	
Attorney Docket No. IG2257US	:	

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

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (2) above.

The $490.00 three and one-half year maintenance fee payment was not received with the petition. Any fee amount paid on or after September 26, 2011, must be paid as shown in the revised fee schedule.

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

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **CHRISTOPHER W. GABRYS**
197D SIERRA OAKS CT
RENO, NV 89521

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Commissioner for Patents
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P.O. Box 1450
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J. MICHAEL NEARY
53939 PINE GROVE ROAD
LAPINE OR 97739

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,105,979	:	
Issue Date: September 12, 2006	:	
Application No. 10/615,758	:	DECISION ON PETITION
Filed: July 08, 2003	:	
Attorney Docket No. IG2257US	:	

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

The petition is **GRANTED**.

This patent expired on September 12, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

/Michelle R. Eason/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAYER BROWN LLP
P.O. Box. 2828
Chicago IL 60690

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Norman B. Roberts et al.	:	
Application No. 10/615,797	:	DECISION ON PETITION
Filed: July 10, 2003	:	TO WITHDRAW
Attorney Docket No. **40304772**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Joseph Mahoney is associated with the above-identified application does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENNETH A. RODDY
2916 WEST T.C. JESTER, SUITE 100
HOUSTON, TX 77018

MAILED
OCT 21 2010
OFFICE OF PETITIONS

In re Application of :
Earl Littman et al :
Application No. 10/616,000 : ON PETITION
Filed: July 9, 2003 :
Attorney Docket No. 1656.002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 14, 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3688 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.

Irvin Dingle
Petition Examiner
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7066180	2006-06-27	10616042	2003-07-09	2230-00100

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.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/scs/	Date (YYYY-MM-DD)	2010-08-17
Name	AirMatrix Technologies, Stephen C. Siracusa, Pres.		
Enter Reel and Frame Number		Remove	
Reel Number	014356	Frame Number	0393
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7066180
Issue Date: June 27,2006
Application No. 10616042
Filed: July 9,2003
Attorney Docket No. 2230-00100

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

This is a decision on the electronic petition, filed August 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/22/12

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10616141 Patent No.: 7947684

CofC mailroom date: 02/17/12

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 be made?**

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: _____

_____

_____

_____

_____

1624

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.
10/616,147	07/08/2003	Klaus Kunze	KOV-004	2078

36872 7590 05/05/2011
THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W FALLBROOK AVE SUITE 203
FRESNO, CA 93711

EXAMINER
TRINH, MICHAEL MANH

ART UNIT	PAPER NUMBER
2822	

MAIL DATE	DELIVERY MODE
05/05/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

The Law Offices of Andrew D. Fortney, PH.D., P.C.
215 W. Fallbrook Ave., Suite 203
Freson, CA 93711

In re Application of: Kunze et al.
Serial No.: 10/616147
Filed: 08 July 2003

: PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed 11 April 2011 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed 11 April 2011 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding:

Mao Takashima

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Zandra V. Smith
Supervisory Patent Examiner,
Art Unit 2822

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-3111 3-31-11

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/616147 Patent No.: 7879696

CofC mailroom date: 03-23-11

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

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.

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

Comments: _____

/Zandra Smith/ 2822

SPE **Art Unit**

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/616,147	08 July, 2003	KUNZE ET AL.	KOV-004

		EXAMINER	
THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C. 215 W FALLBROOK AVE SUITE 203 FRESNO, CA 93711		ZANDRA SMITH	
		ART UNIT	PAPER
		2822	20120119

DATE MAILED:

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

Commissioner for Patents

	Zandra V. Smith SPE Art Unit: 2822

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

MAILED
AUG 04 2011
OFFICE OF PETITIONS

In re Application of
Roy D. Youngman et al.
Application No. 10/616,182
Filed: July 8, 2003
Attorney Docket No. 366-001 U

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed July 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 7, 2010 for failure to timely reply to the Final Office Action mailed July 6, 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 January 19, 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 3667 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

---

[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)).

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: _____

Hassan Kizou

SPE

2472

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.
10/616,486	07/08/2003	Jesse T. Quatse	134779.01101	9731

21269 7590 05/24/2011
PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

EXAMINER
LASTRA, DANIEL

ART UNIT	PAPER NUMBER
3688	

MAIL DATE	DELIVERY MODE
05/24/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 24 2011

Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh. PA 15219

In re Application of Jesse T. Quatse et al. Application No. 10/616,486 Filed: July 8, 2003 For: HIGH-PRECISION CUSTOMER-BASED TARGETING BY INDIVIDUAL USAGE STATISTICS	: : : :	DECISION ON THE PETITION REGARDING NEW GROUND OF REJECTION AFTER APPEAL

Applicant's petition under 37 CFR 1.182, filed January 15, 2009, being treated as a petition for Supervisory review under 37 CFR 1.181, requests the supervisor to compel the examiner to withdraw a new ground of rejection in the Supplemental Examiner's Answer dated December 5, 2008.

The petition is **DISMISSED as Moot**.

A review of the file record indicates that subsequent to the instant petition the applicant submitted an amendment on February 5, 2009. In response the examiner the examiner reopened prosecution and issued a Non-final Office action on April 20, 2009.

Given that the application had been withdrawn from appeal and prosecution reopened, the question that this petition was filed to resolve, is no longer at issue.

Therefore the instant petition is **DISMISSED as Moot** for the reasons given above.

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

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

snm/snm: 5/19/11

SM

UNITED STATES 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

OCT 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Nam Chul Kim et al.	:	
Application No. 10/617,027	:	NOTICE
Filed: July 11, 2003	:	
Attorney Docket No. **240054US2**	:	

This is a notice regarding your request filed September 30, 2008, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This patent/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) 272-4584.

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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MAILED
MAY 17 2011
OFFICE OF PETITIONS

MILTONS, IP/P.I.
2255 CARFING AVENUE
SUITE 203
OTTAWA ON K2P 1P9 CA
CANADA

In re Patent No. 6,883,300	:	
Issue Date: April 26, 2005	:	
Application No. 10/617,179	:	ON PETITION
Filed: July 11, 2003	:	
Attorney Docket No. SANDE-03.US	:	

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

The petition is **GRANTED**.

This patent expired on April 26, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

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

Cc: ALLAN SANDERS
27 ANDREA CRES
ORILLIA, ONTARIO, L3V 6Y1 CA
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

SEP 22 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Grilli et al. :
Application No. 10/617,215 :
Filed: July 7, 2003 :
Attorney Docket No. 030337 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 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.

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 December 24, 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 March 25, 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).

As to item (1), although petitioner has submitted a request for continued examination (RCE) and information disclosure statements (IDS), since the application was held abandoned for failure to pay the issue and publication fees the required reply also must include the submission of the issue and publication fees. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. See MPEP 711.03(c).

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) 272-3215.

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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of :
Grilli et al. :
Application No. 10/617,215 :
Filed: July 7, 2003 :
Attorney Docket No. 030337 :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 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 December 24, 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 March 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue and publication fees of $1810, RCE and an Information Disclosure Statement (IDS), (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Petitioner is advised that the issue fee paid on renewed petition 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 concerning this decision should be directed to the undersigned at (571) 272-3215.

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

This application is being referred to Technology Center AU 2435 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the submission in accordance with 37 CFR 1.114.

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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MAILED

SEP 21 2010

OFFICE OF PETITIONS

Paper No.

SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

In re Patent No. 7,638,228	:	DECISION ON REQUEST
Minteer et al.	:	FOR
Issue Date: December 29, 2009	:	RECONSIDERATION OF
Application No. 10/617,452	:	PATENT TERM ADJUSTMENT
Filed: July 11, 2003	:	and
Atty Docket No. SLU 4554.1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 26, 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 five hundred and seventy-five (1575) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand five hundred seventy-four (1574)** days.

On petition, patentee requests that the Office add a "B" delay of one thousand two hundred sixty-eight (1,268) days. However, at the same time, patentee only requests an overall revised patent term adjustment of 1575 days substantially consistent with the calculation of the Office (which would add 1091 days of "B" delay). Like the Office's calculation patentee's calculation implicitly acknowledges that the "B" delay does not include any time consumed by continued examination under 35 U.S.C. 132(b).

However, patentee's calculation differs from the Office in that it does not exclude enough days for time consumed by continued

examination under 35 U.S.C. 132(b). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on July 12, 2006 and ends on July 5, 2009, the day before the first RCE was filed, which amounts to 1090 days. See U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is increased by 1090 days to 1575 days. (The period of adjustment of 434 days entered at issuance for "B" delay has been removed and the period of adjustment of 1090 days has been entered).

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.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred seventy-four (1574) 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 : 7,638,228 B2

DATED : **December 29, 2009** **DRAFT**

INVENTOR(S) : Minteer 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 918 days

Delete the phrase "by 918 days" and insert – by 1574 days--

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.
10/617,829	07/14/2003	Daniel De Lichana	152882	5221

38598 7590 02/15/2012
ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005

EXAMINER
SITTNER, MATTHEW T

ART UNIT	PAPER NUMBER
3682	

NOTIFICATION DATE	DELIVERY MODE
02/15/2012	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):

PTODC@andrewskurth.com

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 14 2012

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

ANDREWS KURTH LLP
Intellectual Property Department
1350 I Street, NW
Suite 1100
Washington, D.C. 20005

In re Application of	:	
Daniel De Lichana et al.	:	DECISION ON PETITION
Application No. 10/617,829	:	UNDER 37 CFR 1.84
Filed: July 14, 2003	:	TO ACCEPT COLOR
For: Systems and Methods for Land-Use Development, Planning, and Management	:	DRAWINGS

This is a decision on the petition under 37 CFR § 1.84, filed July 28, 2009, to accept color drawings.

A petition under 37 CFR 1.84 will be granted only when the U.S Patent and Trademark Office has determined that a color drawing or color photograph is the only practical medium by which to disclose in a printed utility patent the subject matter to be patented (MPEP 608.02). A petition under 37 CFR 1.84(a)(2) requires:

(i) The fee set forth in § 1.17(h);
(ii) Three (3) sets of color drawings;
(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

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

Upon review, it has been determined that the colored drawings are not necessary and are not the only practical medium by which to disclose in a printed utility patent the subject matter to be patented in this application.

For example, Applicant has failed to demonstrate why using numbers, letters, symbols, patterns, or shading would be inadequate to illustrate the eight variables listed in Figures 6C and 6D. Additionally, for example, Applicant has failed to demonstrate why a black and white image, a

sketch, or a grayscale drawing that was used for illustrating site mapping in 769 and 770 could not be used for depicting 771 in Figure 7F.

Accordingly, the petition filed under 37 CFR § 1.84(a)(2) is **DISMISSED**.

Any questions concerning this decision should be referred to Namrata (Pinky) Boveja at (571) 272-8105.

Namrata Boveja

Namrata Boveja
Supervisory Patent Examiner, Art Unit 3682

UNITED STATES 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. 7180282
Issue Date: February 20,2007
Application No. 10617844
Filed: July 11,2003
Attorney Docket No. ELSE-0819

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

This is a decision on the electronic petition, filed April 14,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 14,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,180,282	2007-02-20	10/617,844	2003-07-11	ELSE-0819 / B90027E

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	/Steven B. Samuels/	Date (YYYY-MM-DD)	2011-04-14
Name	Steven B. Samuels	Registration Number	37711

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MEDTRONIC, INC. (SPINAL/HAYNES BOONE)
710 MEDTRONIC PARKWAY
ATTN: LEGAL PATENTS MS: LC340
MINNEAPOLIS MN 55432-5604

MAILED
FEB 14 2012
OFFICE OF PETITIONS

In re Application of :
Boucher, et al. :
Application No. 10/617,895 : DECISION
Filed/Deposited: 11 July, 2003 :
Attorney Docket No. P0031798.155 / :
41914.465

This is a decision on the papers filed on 19 December, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

The address on the petition is other than that as the correspondence address of record.

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, Petitioner **must** make such an inquiry.

[1] See 37 C.F.R. §11.18(b), formerly §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

> 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 C.F.R. §1.137(b) was unintentional, Petitioner **must** immediately so notify the Office.

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

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 15 April, 2011, with reply due absent an extension of time on or before 15 July, 2011.

The application went abandoned by operation of law after midnight 15 July, 2011.

The Office mailed the Notice of Abandonment on 25 November, 2011.

On 19 December, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form an amendment, and a statement of unintentional delay.

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

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

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

STATUTES, REGULATIONS

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

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

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

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

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

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

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

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 3734 for further processing in due course.

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

---

petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

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

CC:
LEO G. LENNA
1000 WOODBURY ROAD/STE. 405
WOODBURY NY 11797

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
Balard et al. : DECISION ON PETITION
Application No. 10/618,861 :
Filed: July 14, 2003 :
Attorney Docket No. TI-34921 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed April 8, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed September 9, 2010. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective December 10, 2010. A courtesy Notice of Abandonment was mailed on May 31, 2011.

The petition includes the required reply, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2432 has been advised of this decision. The application is forwarded to the examiner for consideration of the amendment submitted on petition filed April 8, 2011. It is noted that petitioner also filed a Notice of Appeal and Appeal Brief on April 8, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of :
Jerome Azema et al. :
Application No. 10/618,873 : DECISION ON PETITION
Filed: July 14, 2003 :
Attorney Docket No. **TI-34922** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 01, 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 02, 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) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office June 01, 2010, is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

This application is being referred to Technology Center AU 2437 for appropriate action on the concurrently filed amendment.

(for)

Ramesh Krishnamurthy
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.
10/619,066	07/14/2003	Jay S. Walker	3718582-00122	5879

29159 7590 08/26/2010
K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER
NGUYEN, KIM T

ART UNIT	PAPER NUMBER
3713	

NOTIFICATION DATE	DELIVERY MODE
08/26/2010	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.

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

chicago.patents@klgates.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100819

DATE : August 19, 2010

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 7,056,207

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:

/THOMAS G BLACK/
Supervisory Patent Examiner.Art Unit 3661

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/07/11

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/619,088 Patent No.: 7846126

CofC mailroom date: 01/18/2011

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — 3763 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

Nelson Mullins Riley & Scarborough LLP
IP Department
100 North Tryon Street
42nd Floor
Charlotte NC 28202-4000

MAILED
DEC 28 2010
OFFICE OF PETITIONS

In re Application of	:	
John Irving, et al.	:	
Application No. 10/619,259	:	DECISION ON PETITION
Filed: July 14, 2003	:	
Attorney Docket No. 28849/09179	:	

This is a decision on the petition, filed October 11, 2010, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Non-Final Office action of January 9, 2006 which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 9, 2006, or, on or before July 9, 2006, with a three (3)-month extension of time. A Notice of Abandonment was mailed July 18, 2006.

Petitioner states that a timely reply was filed on July 7, 2006, which included the following papers: an amendment, and a request for a three (3) month extension of time.

The file record includes the originally submitted papers.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 9, 2006, is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 2169 for appropriate action in the normal course of business on the amendment filed on July 7, 2006.

/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

Christopher & Weisberg, P.A.
200 East Las Olas Boulevard
Suite 2040
Fort Lauderdale FL 33301

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Abboud, et al. :
Application No. 10/619,366 :
Filed: July 14, 2003 :
Attorney Docket No. 21819-146CON :

NOTICE

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

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

Your fee deficiency submission under 37 CFR 1.28 has not been accepted because the request fails to comply with the S-signature requirements set forth at 37 CFR 1.4(d)(2).

Compliance within a **one-month non-extendable time period** under § 1.136(a) is required to avoid the return of the fee deficiency paper. See, 37 CFR 1.28(c)(3).

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.

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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MAILED
MAY 09 2011
OFFICE OF PETITIONS

Christopher & Weisberg, P.A.
200 East Las Olas Boulevard
Suite 2040
Fort Lauderdale FL 33301

In re Application of	:	
Abboud, et al.	:	
Application No. 10/619,366	:	NOTICE
Filed: July 14, 2003	:	
Attorney Docket No. 21819-146CON	:	

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

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

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Moo Ho Bae	:	
Application No. 10/619,613	:	NOTICE
Filed: July 16, 2003	:	
Attorney Docket No. **240366US8**	:	

This is a notice regarding your request filed September 30, 2008, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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Paper No.

MICHELLE C. KIM
JONES DAY
555 W. FIFTH STREET
SUITE 4600
LOS ANGELES CA 90013-1025

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NOV 07 2011
OFFICE OF PETITIONS

In re Application of Moll et al. Application No. 10/619,725 Patent No.: 6,979,350 Filed: July 15, 2003 Issued: December 27, 2005 Attorney Docket No.: VENPRO.004C1C1 Title: METHODS FOR REGULATING THE FLOW OF BLOOD THROUGH THE BLOOD SYSTEM	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 29, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $1680.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

It is not apparent whether the person signing the statement which asserts that small entity status was established in good faith was in a position to have firsthand or direct knowledge of the facts and circumstances of the establishment of small entity status. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such establishment. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the establishment of small entity status was not made in good faith, Petitioner must notify the Office.

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

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Kyle E. Conklin
Sterne, Kessler , Goldstein & Fox
1100 New York Avenue NW
Washington, DC 20005-3934

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	10619917
Filing Date	15-Jul-2003
First Named Inventor	Christopher Allen
Attorney Docket Number	10761.1457
Title of Invention	SYNCHRONIZATION OF AGENT SKILL DATA

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 8112391 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:

Accenture Global Services GmbH

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

Accenture Global Services Limited

☒ 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	/Erika H. Arner/
Name	Erika H. Arner
Registration Number, if applicable	57540

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date:	April 2, 2012
In re Patent No.	8112391
Issue Date:	07-Feb-2012
Application No	10619917
Filed date	15-Jul-2003
Attorney Docket No	10761.1457

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed April 2, 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:

Accenture Global Services GmbH

Change Assignment Information to the Following:

Accenture Global Services Limited

The request is GRANTED.

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

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

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

Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
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10/620252

DATE: January 26, 2012
Patent No: 6897227
Applicant: Garst, et al.
Issued: 05/24/2005

Request for consideration of Certificate of Correction:

Consideration has been given for your request for the certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

Respecting the alleged errors in Column 180 line 18 has already issued and is printed in accordance with the record. Therefore, no correction(s) are in order here under United States Codes (U.S.C.) 254 Code of Federal Regulation (C.F.R.) 1.322/1.323.

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

RoChaun Hardwick for
Mary Diggs, Supervisor
Decisions and Certificates of Correction
(571) 272-0470

LAW OFFICE OF GABOR L. SZEKERES
P.O. BOX 27938
ANAHEIM HILLS, CALIFORNIA 92808

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

MAILED
OCT 28 2010
OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	
Application No. 10/620,329	:	ON PETITION
Filed: July 14, 2003	:	
Attorney Docket No. 021318-000610US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is October 12, 2008. A Notice of Abandonment was mailed April 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 a continuing application, (2) the petition fee of $810 , and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application number 12/352,544.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of
Colin John Blamires et al.
Application No. 10/620,364
Filed: July 17, 2003
Attorney Docket No. NAI1P492/03.028.01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 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 there was no forwarding correspondence address. The forwarding address should be that of that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 24 2010

OFFICE OF PETITIONS

In re Application
Darwin Rambo et al.
Application No. 10/620,474
Filed: July 16, 2003
Attorney Docket No. 15019US01

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed on October 22, 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 reconsideration 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 two (2) days 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. 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.

[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.

A Final Office Action was mailed November 20, 2009 and the response was therefore due on February 20, 2010. February 20, 2010 was a weekend and thus, the response was received on February 22, 2010 which is three months and two days later. As such, a reduction of two days was assessed. Patentees have argued that this is improper, as February 20, 2010 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).

In view thereof, the patent term adjustment was properly stated at the time the Notice of Allowance was mailed.

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 acknowledges the submission of the required fee of $200.00 set forth in 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

[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."

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

LISA K. JORGENSON
STMICROELECTRONICS, INC.
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Patent No. 7774574	: DECISION ON REQUEST
Ryan et al.	: FOR
Issue Date: 08/10/2010	: RECONSIDERATION OF
Application No. 10/621012	: PATENT TERM ADJUSTMENT
Filed: 07/15/2003	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
SHI-003	: CERTIFICATE OF CORRECTION

This is a decision on the PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(d), filed on August 16, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand seven hundred eighty-two (1782) 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 seven hundred eighty-two (1782) days is **GRANTED**.

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

The address in the petition is different from the correspondence address. A courtesy copy of this decision is being forwarded to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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 seven hundred eighty-two (1782)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Cc: MUNCK CARTER, LLP
P.O. DRAWER 802432
DALLAS TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,774,574 B2

DATED : **Aug. 10, 2010** **DRAFT**

INVENTOR(S) : Ryan 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 1559 days.

Delete the phrase "by 1559 days" and insert – by 1782 days--

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

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of
Louis Pascarella, et al.
Application No. 10/621,043
Filed: July 15, 2003
Attorney Docket No. 759.001US2

DECISION ON PETITION

This is a decision on the petition, filed May 2, 2011, which is being treated as a petition under 37 CFR 1.8(b), 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 file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1), which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before November 30, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on May 2, 2011, which included the following papers: a Request for Continued Examination (RCE) a five (5) month extension of time and an amendment. Petitioner has submitted the reply, which bears a certificate of mailing dated May 2, 2011, which rendered the reply timely.

The petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Appeal filed May 2, 2010 is hereby **withdrawn** and the **application restored to pending status**.

The reply received with the petition is accepted as timely filed.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2441 for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7021922
Issue Date: April 4,2006
Application No. 10621523
Filed: July 18,2003
Attorney Docket No. A8608

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

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

The petition is **GRANTED**.

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

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

PTO/SB/66 (03-09)
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)
7,021,922	2006-04-04	10/621,523	2003-07-18	A8608

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	/Mark C. Davis/	Date (YYYY-MM-DD)	2011-09-28
Name	Mark C. Davis	Registration Number	60552

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Pohjola et al.	:	
Application No. 10/622,113	:	ON APPLICATION FOR
Filed: July 18, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-2346	:	

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 April 13, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand three hundred sixty-six (1366) days, not six hundred ninety-five (695) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Nancy Johnson
~~Senior~~ Petitions Attorney
Office of Petitions

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MAR 15 2011

OFFICE OF PETITIONS

PATRICK C. KEANE
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of	:	
Wiedemann et al.	:	DECISION ON PETITION
Application No. 10/622,144	:	TO WITHDRAW
Filed: July 18, 2003	:	FROM RECORD
Attorney Docket No. 017750-420	:	

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 Office will require the practitioner(s) to specify a reason and 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 Teresa Stanek Rea on behalf of herself.

Teresa Stanek Rea has been withdrawn as attorney of record, however all other attorneys remain of record.

There is an outstanding Notice of Allowance mailed March 15, 2011, that requires a reply from the applicant.

As no change of correspondence address was indicated on the request, the address will remain unchanged.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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SEP 22 2010

OFFICE OF PETITIONS

PATRICK HO
4 QUAIL RUN
HILTON, NY 14468

In re Patent No. 7,040,262	:	
Issue Date: May 9, 2006	:	
Application No. 10/622,232	:	ON PETITION
Filed: July 18, 2003	:	
Patentee(s): Patrick C. Ho	:	

This is a decision in response to the petition, filed July 22, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent under the provisions of 37 CFR 1.378(c).

The petition is **GRANTED**.

This patent expired on May 9, 2010 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition is timely filed under the provisions of 37 CFR 1.378(c).

The petition is not signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of Kenneth J. LuKacher appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. LuKacher desires to receive correspondence regarding this patent, then the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

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

In view of the above, the 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KENNETH J. LUKACHER
3136 WINTON ROAD SOUTH, SUITE 301
ROCHESTER, NY 14623

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application:	:	
Modak et al.	:	
Application No.10/622,272	:	NOTICE
Filed: July 17, 2003	:	
Attorney Docket No. 070050.2429	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on April 18, 2011.

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

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

This patent 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 Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7080168
Issue Date: July 18,2006
Application No. 10622285
Filed: July 18,2003
Attorney Docket No. P17398 INT-034

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

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

The petition is **GRANTED**.

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

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

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,326,415	:	
Issue Date: February 5, 2008	:	
Application No. 10/622,313	:	NOTICE
Filed: July 17, 2003	:	
Attorney Docket No. **052208-399049**	:	

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is

> an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted because it is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Mrs Gillian Gascoigne) was ever given a power of attorney to act on behalf of the inventors Julian Alexander Barden, Angus Gidley-Baird, or that he is an assignee of the entire interest and has complied with the provision of 37 CFR 3.73(b). Therefore, until the petition is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest the request cannot be accepted. If the request is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Mrs Gillian Gascoigne
Dennemeyer & Co. LTD
Regent House Heaton Lane
Stockport Cheshire
England SK4 1BB

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CHARLOTTE NC 28280-4000

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APR 10 2012
OFFICE OF PETITIONS

In re Application of	:	
Julian Alexander Barden et al.	:	
Application No. 10/622,313	:	NOTICE
Filed: July 17, 2003	:	
Attorney Docket No. **052208-399049**	:	

This is a notice regarding your renewed request filed September 9, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
Thomas J. Fogarty

Application No. 10622437

Filed: July 18,2003

Attorney Docket No. FGRTNZ00200

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 07-DEC-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), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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JEFFREY N. COLLINS
COLLINS & SKILLERN, P.L.L.C.
5327 SUMMERHILL ROAD
TEXARKANA TX 75503

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Patent No. 7,150,121	:	
Issued: December 19, 2006	:	
Application No. 10/622,931	:	DECISION ON PETITION
Filed: July 18, 2003	:	
Attorney Docket No. DRC002	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 26, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 20, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: David R. Clay
4201 East Renfro Street
Alvarado, Texas 76009

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

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Patent No. 6,947,206	:	
Issued: September 20, 2005	:	
Application No. 10/623,280	:	ON PETITION
Filed: July 18, 2003	:	
Attorney Docket No.	:	
64992/P001US/10308762		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 8, 2010 and December 6, 2010.

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

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

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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IPxLAW Group LLP
95 South Market Street
Suite 570
San Jose CA 95113

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of :
Yadav-Ranjan :
Application No. 10/623,352 : ON PETITION
Filed: July 17, 2003 :
Attorney Docket No. NAVIGATOR-0003US :
For: SYSTEM AND METHOD OF CONTRACTOR RISK ASSESSMENT SCORING SYSTEM (CRASS) USING THE INTERNET, AND COMPUTER SOFTWARE

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

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed October 26, 2010, which set an extendable three month period for reply. Applicant submitted an amendment after final on December 27, 2010. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the February 1, 2011 Advisory action. Accordingly, this application became abandoned on January 27, 2011. A Notice of Abandonment was mailed on May 13, 2011.

Applicant has submitted a RCE and required $405.00 fee and a copy of a previously submitted amendment as the submission in reply to the October 26, 2010 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 26, 2010 final Office action, and the $810.00 petition fee.

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

results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, practitioner must notify the Office.

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 May 25, 2011 was submitted subsequent to the expiration of the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

After the mailing of this decision the application will be forwarded to Technology Center AU 3689 for consideration of the RCE filed on May 25, 2011.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/21/2010

TO SPE OF : ART UNIT 3691 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/623,434 Patent No.: 7,660,761

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 [signature] ART UNIT 3691

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
FEB 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Barnardo et al.	:	
Application No. 10/623,802	:	DECISION ON PETITION
Filed: July 22, 2003	:	
Attorney Docket No. 1181-282	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal dated November 30, 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 31, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed July 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114;; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was

unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Patrick J. Halloran
3141 Muirfield Road
Center Valley, PA 18034

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)
7089594	2006-08-08	10623932	2003-07-21	Jul-007

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William L. Botjer/	Date (YYYY-MM-DD)	2011-01-06
Name	William L. Botjer	Registration Number	27990

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7089594
Issue Date: August 8,2006
Application No. 10623932
Filed: July 21,2003
Attorney Docket No. JUL-007

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

This is a decision on the electronic petition, filed January 6,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. Steven Shuyong Xiao
3455 Isabelle, Local E
Brossard QC J4Y 2R2 CA
CANADA

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Patent No. 6,949,403 :
Issue Date: September 27, 2005 :
Application No. 10/624,003 : REQUEST FOR INFORMATION
Filed: July 22, 2003
For: NON-VACUUM METHODS FOR THE :
FABRICATION OF ORGANIC :
SEMICONDUCTOR DEVICES :

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

The petition is **DISMISSED**.

The patent issued September 27, 2005. The 3.5 year (first) maintenance fee could have been paid from September 27, 2008 through March 26, 2009 or with a surcharge during the period from March 27, 2009 through September 27, 2009. Accordingly, the patent expired on September 28, 2009, for failure to timely submit the 3.5 year maintenance fee.

Any petition under 37 CFR 1.378 must be signed by an attorney or agent registered to practice before the U.S. Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. A person or organization whose only responsibility insofar as the patent is concerned is the payment of a maintenance fee is not a party in interest for purposes of 37 CFR 1.378. If the petition is signed by a person not registered to practice before the Office, the petition must indicate that the person signing the petition is the patentee, assignee, or other party in interest. An assignee must comply with the requirements of 37 CFR 3.73(b) which is discussed in MPEP § 324.

The person who has executed the petition is Steven Shuyong Xiao has failed to establish he is authorized to act on behalf of the assignee pursuant to 37 CFR 3.73 (b)(2). A statement pursuant to 37 CFR 3.73(b) is required.

The merits of petitioner's argument to establish unavoidable delay have **not** been considered.

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

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

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

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

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

Charlema Grant
Petition Attorney
Office of Petitions

Enclosure: PTO/SB/96

UNITED STATES PATENT AND TRADEMARK OFFICE

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

June 28, 2011

Marc A. Hubbard
Gardere Wynne Sewell LLP
1601 Elm Street
Suite 3000
Dallas, TX 75201-4761

Patent No: 7,191,229 B2
Application No: 10/624,090
Applicant: Shawn E. Edmondson
Issued: March 13, 2007
Title: **SYSTEM AND METHOD FOR PROVIDING A CUSTOMER CONTROLLED NETWORK**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the application file for the patent reveals that column 17, line 13 in the patent, is printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

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

However, further consideration will be given to this matter, upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee which is presently $100.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/16/2011

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/624090 Patent No.: 7191229 B2

CofC mailroom date: 8/9/2011

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: _____

_____

_____

_____

_____

SPE

2454
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAR 06 2012
OFFICE OF PETITIONS

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

In re Application of	:	
Daniel N. Ozick	:	
Application No. 10/624449	:	
Filing or 371(c) Date: 07/22/2003	:	LETTER
Pat. Num.: 6940291	:	
Issue Date: 09/06/2005	:	
Attorney Docket Number: IRO-022C1	:	

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FEB 09 2011
OFFICE OF PETITIONS

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

In re Patent of Kei Hayasaki et al.	:	DECISION ON PETITION
Patent No. 7,364,839	:	UNDER 37 C.F.R. § 1.183
Issue Date: April 29, 2008	:	AND ON REQUEST FOR
Application No. 10/624,593	:	RECONSIDERATION OF
Filing Date: July 23, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 256753US96	:	

This is a decision responding to papers filed October 24, 2008, which are being treated as a petition under 37 C.F.R. § 1.183 and a petition under 37 C.F.R. § 1.705(d).

The petition under 37 C.F.R. § 1.183 is **granted**.

The petition under 37 C.F.R. § 1.705(d) 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 **zero (0) days**. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

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

Background

The application was filed July 23, 2003.

On December 14, 2007, the Office issued a Notice of Allowance and a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) advising applicants of a patent term adjustment to date of 99 days.

A "Notice of Error in the Determination of Patent Term Adjustment" was filed March 13, 2008. The document states Applicants' calculations indicate the correct initial patent term adjustment is 39 days, not 99 days.

The application matured into Patent No. 7,364,839 on April 29, 2008. The patent sets forth a patent term adjustment determination of 99 days.

The instant petitions were filed on October 24, 2008, which was 178 days after the patent issued.

The Petition Under 37 C.F.R. § 1.183

Pursuant to 37 C.F.R. § 1.705(d), a request under 37 C.F.R. § 1.705(d) must be filed within two months of the date a patent issues. The instant petition under 37 C.F.R. § 1.183 requests the Office suspend or waive the two-month requirement.

The two-month period to file a petition under 37 C.F.R. 1.705(d) is set by regulation, not by statute. Therefore, the period may be waived pursuant to 37 C.F.R. § 1.183, which states,

> In an extraordinary situation, when justice re-quires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.

Based on the specific facts in this case, the Office has concluded waiver of the two-month time limit is warranted. Therefore, the petition under 37 C.F.R. § 1.183 is granted.

The Petition Under 37 C.F.R. § 1.705(d)

The patent sets forth a patent term adjustment determination of 99 days. The petition under 37 C.F.R. § 1.705(d) asserts the patent should have set forth a patent term adjustment determination of 65 days.

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

The period of A Delay is 267 days and is not in dispute.

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

The application was filed July 23, 2003, and a request for continued examination ("RCE") was filed August 18, 2006.

As stated in 37 C.F.R. § 1.703(b)(1), the period of B Delay does not include,

> The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

The petition states the period of B Delay is 26 days. However, the period of time beginning July 24, 2006, the day after the date three years after the filing date, and ending August 17, 2006, *the day before the date the RCE was filed*, is 25 days. In other words, the correct period of B Delay is 25 days.

Overlap Between the Periods of A Delay and B Delay

The petition contends, and the Office agrees, the period of A Delay does not overlap with the period of B Delay. Therefore, the number of days of overlap is zero.

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

The petition under 37 C.F.R. § 1.705(d), when considered in conjunction with the paper filed March 13, 2008, *appears* to assert the correct period of Applicant Delay is 228 days, not 168 days as previously calculated by the Office.

A review of the record indicates the correct period of Applicant Delay is 294 days.

Issue 1

The Office issued a final Office action on June 1, 2007.

A RCE and submission were filed on October 31, 2007.

The Office did not enter a reduction in patent term adjustment based on the facts above.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A response to the June 1, 2007 Office action was not filed until October 31, 2007, which was three months and 60 days after the Office action was issued. Therefore, the Office should have entered a 60-day reduction in patent term adjustment under 37 C.F.R. 1.704(b).

Issue 2

The Office issued a final Office action on May 19, 2006.

A RCE and submission were filed August 18, 2006.

An information disclosure statement ("IDS") was filed October 23, 2006.

The Office did not enter a reduction in patent term adjustment based on the facts above.

Per 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

The IDS filed October 23, 2006, did not include a statement under 37 C.F.R. 1.704(d) and the record fails to indicate the examiner expressly requested the submission of the IDS. Therefore, a reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(8).

The number of days beginning August 19, 2006, the day after the date a reply was filed in response to the May 19, 2006 final Office action, and ending on October 23, 2006, the date the IDS was filed, is 66 days. Therefore, the Office should have entered a 66-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) as a result of the submission of the IDS.

The Total Period of Applicant Delay

The total period of Applicant Delay is 294 days, which is the sum of the 168 days of Applicant Delay previously recognized by the Office increased by 60 days for the delay under 37 C.F.R. § 1.704(b) involving a reply filed October 31, 2007, and increased by 66 days for the delay under 37 C.F.R. § 1.704(c)(8) involving an IDS filed October 23, 2006.

The Correct Patent Term Adjustment

The period of A Delay is 267 days.

The period of B Delay is 25 days.

The periods of A Delay and B Delay do not overlap.

The total period of Applicant Delay is 294 days.

The sum of 267days of A Delay and 25 days of B Delay reduced by 294 days of Applicant Delay is -2 days. A patent cannot receive a patent term adjustment less than 0 days. Therefore, the proper patent term adjustment is 0 days.

Conclusion

In view of the prior facts, the patent should have set forth a patent term adjustment determination of zero (0) days.

The petitions were accompanied by the petition fee for the petition under 37 C.F.R. § 1.183, but not by the $200 petition fee for the petition under 37 C.F.R. § 1.705(d). Therefore, the Office has charged $200 to Deposit Account No. 06-0916 pursuant to the general fee authorization set forth in the petition under 37 C.F.R. § 1.705(d).

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 **zero (0)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,364,839 B2
APPLICATION NO.	:	10/624,593
DATED	:	April 29, 2008
INVENTOR(S)	:	Kei Hayasaki 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 99 days.

Delete the phrase "by 99 days" and insert -- by 0 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SEP 08 2010
OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Patent No. 7,588,927	: DECISION ON APPLICATION FOR
Issued: September 15, 2009	: PATENT TERM ADJUSTMENT and
Application No. 10/624,945	: NOTICE OF INTENT TO ISSUE
Filed: July 22, 2003	: CERTIFICATE OF CORRECTION
Dkt. No.: UTSH:245USC1/10308540	:

This is a decision on the petition filed on May 21, 2010 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 696 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 696 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **696** days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,588,927

DATED : September 15, 2009 **DRAFT**

INVENTOR(S) : Yeh, 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 642 days

Delete the phrase "by 642 days" and insert – by 696 days--

.UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,166,283
Issued: January 23, 2007
Application No. 10/625,105
Filed: July 22, 2003
Atty. Dkt. No.: 14539-006002

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT UNDER
: 37 CFR 1.705(d) and PETITION UNDER
: 37 CFR 1.183

This is a decision on the "RESPONSE TO DECISION ON PETITION UNDER 37 C.F.R. § 1.183 AND ON APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(D)," filed October 27, 2009, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA"). The response is properly treated as a request for reconsideration of petition under 37 CFR 1.183.

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 petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,166,283 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept <u>any</u> requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination..

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of August 31, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is hereby **DENIED**.

Telephone inquiries specific to this matter should be directed to Alesia M. Brown, Petitions Attorney, at (571) 272-3205.

Anthony Knight
Director
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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PETERS VERNY , L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Shuichi Mizuno et al.	:	DECISION ON PETITION
Application No. 10/625,245	:	TO WITHDRAW
Filed: July 22, 2003	:	FROM RECORD
Attorney Docket No. **3831.08**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed November 23, 2011 and supplemented on December 1, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw attorneys' by Customer Number when the power of attorney was originally granted individually in the Declaration and Power of Attorney filed December 12, 2003.

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

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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PETERS VERNY , L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Shuichi Mizuno et al.	:	
Application No. 10/625,245	:	DECISION ON PETITION
Filed: July 22, 2003	:	TO WITHDRAW
Attorney Docket No. **3831.08**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 22, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Steven M. Colby does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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

KOS PHARMACEUTICALS, INC.
1 CEDAR BROOK DRIVE
CRANBURY, NJ 08512-3618

MAILED
MAY 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Daniel M. Deaton, et al.	:	
Application No. 10/625,359	:	DECISION ON PETITION
Filed: July 23, 2003	:	
Attorney Docket No.: 900001-2115	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The petition is signed by Timothy K. Klintworth; however he is not a registered attorney or agent of record. If Mr. Klintworth is a patent practitioner acting in a representative capacity, he must set forth his registration number.

37 CFR 1.33 (b) states that:

Amendments and other papers filed in the application must be signed by:

(1) An attorney or agent appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a Representative capacity under the provisions of § 1.34(a);

* * *

37 CFR 1.34 states:

"When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the

> particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required."

Further, 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 petition lacks item (3). In this regard, the petition does not contain an acceptable statement of unintentional delay because the petition is not properly signed.

Under the circumstances of this case, a courtesy copy of this decision is being mailed to petitioner; however, all future correspondence regarding this application file will be directed solely to the address of record.

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and include a ratification of the unsigned petition.

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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TIMOTHY K. KLINWORTH
KLINTWORTH & ROZENBLAT IP LLC
850 WEST JACKSON BLVD.
SUITE 660
CHICAGO, IL 60607

[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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United States Patent and Trademark Office
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U S ARMY RESEARCH LABORATORY
ATTN: RDRL-LOC-I
2800 POWDER MILL RD
ADELPHI MD 20783-1197

In re Patent No. 7,172,834	:	
Issue Date: February 6, 2007	:	ON PETITION
Application No. 10/625,686	:	
Filed: July 24, 2003	:	
Atty. Docket No. ARL 02-27	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 20, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent expired on February 7, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to Robert DeWitty at 571-272-8427.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

In re Application of	:
Pain et al.	: DECISION ON PETITION
Application No. 10/625,847	: UNDER 37 CFR 1.78(a)(3)
Filed: 07/24/2003	: AND
Attorney Docket Number: 37991-0017	: UNDER 37 CFR 1.137(b)

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED DOMESTIC BENEFIT CLAIM UNDER 37 C.F.R. § 1.78(a)(3), filed on October 14, 2011, which is treated as a petition requesting acceptance of an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application as set forth in the Application Data Sheet (ADS) filed on December 8, 2011. This is also a decision on the concurrently-filed petition to revive the application under 37 CFR 1.137(b).

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

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

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, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Petition Under 37 CFR 1.137(b).

The application became abandoned on January 9, 2009 for failure to timely file a reply to the final Office action mailed on August 8, 2008, which set a three (3) month shortened statutory period for reply. On January 8, 2009, a two (2) month extension of time pursuant to 37 CFR 1.136(a) was obtained. No reply to the Office action, however, was filed. On March 3, 2009, Notice of Abandonment was mailed.

Applicants state that the above-referenced petition under 37 CFR 1.78(a)(3) is the required reply.

A grantable petition pursuant to this paragraph must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition lacks item (3). The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance.

Neither a petition under 37 CFR 1.78(a)(3) (nor an Application Data Sheet) are proper reply to a final Office action. As a proper reply to the final Office action has not been filed, the petition must be dismissed.

In this regard, the application does not need to be pending in order for the Office to accept a delayed claim of benefit under 35 U.S.C. § 120 pursuant to 37 CFR 1.78(a)(3).[1] However, if applicant wishes to revive the application for other purposes, a renewed petition under 37 CFR 1.137(b) must be filed, accompanied by a proper reply.

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

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

A reply may also be filed via the EFS-Web system of the USPTO.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

---

[1] Petitioner should note Item CX14 on the USPTO Webpage "Eighteen-Month Publication Questions and Answers", which states: Can applicant add a benefit claim of a prior-filed non-provisional application in a later-filed copending application that has been abandoned without filing a petition to revive the later-filed application? (added 4Feb2005)

Yes, a petition to revive the later-filed application is not required when applicant is adding a benefit claim by filing an amendment (or an application data sheet) to add the specific reference of the prior-filed non-provisional application. See http://www.uspto.gov/patents/law/aipa/18month/18monthfaq.jsp#cx4.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1632 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed application.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Cc: BUCHANAN INGERSOLL & ROONEY PC
1737 KING ST, SUITE 500
ALEXANDRIA VA 22314

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/625,847	07/24/2003	1632	919	37991-0017	53	1

CONFIRMATION NO. 8939

CORRECTED FILING RECEIPT

26633
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000051433230

Date Mailed: 12/14/2011

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)

Bertrand Pain, Lyon, FRANCE;
Fabienne Guehenneux, Orvault, FRANCE;

Assignment For Published Patent Application

VIVALIS, Roussay, FRANCE

Power of Attorney:

Colin Sandercock--31298
Patricia Granados--33683
John Isacson Jr--33715
Johnny Kumar--34649
Marvin Motsenbocker--36614
Brian Siritzky--37497
Paul Booth--40244
Ronald Kamis--41104
Robert Hansen--43656
Brian Kaider--51117

Domestic Priority data as claimed by applicant

This application is a CON of PCT/FR03/00735 03/07/2003

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.)
FRANCE 0202945 03/08/2002

If Required, Foreign Filing License Granted: 09/05/2003
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/625,847**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **

Title

Avian cell lines useful for the production of substances of interest

Preliminary Class

800

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 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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11-22-2011

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No : 7,818,252 B2
Ser. No. : 10/626,629
Inventor(s) : Steven J. Jackowski, et. al
Issued : October 19, 2010

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

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

Brian J. Brisnehan
Banner & Witcoff, Ltd
1100 13 th Street, NW., Suite 1200
Washington, DC 20005-4051

ej

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P.O. Box 1450
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG H SUITE 250
AUSTIN TX 78758

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
David R. Cheriton	:	
Application No. 10/626,792	:	ON PETITION
Filed: February 23, 2011	:	
Attorney Docket No. CIS0192US	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 23, 2011.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 28, 2010. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on January 29, 2011. The Office mailed a Notice of Abandonment on February 10, 2011.

Petitioner states that he did not receive the Notice of Allowance. In support thereof, petitioner has included a copy of docket report for the attorney in question, showing all of his replies docketed for a due date of January 28, 2011. In addition, petitioner has included a copy of the application filing jacket. Petitioner states that he does not have a copy of a master docket report showing all of the firm's replies docketed for a due date of January 28, 2011.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

In view of the evidence submitted on petition, it is concluded that petitioner has established that he did not receive the October 28, 2010 Notice of Allowance.

The application is being forwarded to Group Art Unit 2473 for re-mailing of the October 28, 2010 Notice of Allowance, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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MAILED
OCT 05 2010
OFFICE OF PETITIONS

WELSH, FLAXMAN & GITLER
2000 DUKE STREET
SUITE 100
ALEXANDRIA, VA 22314

In re Patent No. 7,063,736	:	
Issue Date: June 20, 2006	:	
Application No. 10/626,836	:	NOTICE
Filed: July 25, 2003	:	
Attorney Docket No. A-8656.ROA	:	

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Frank E. Bunn
26 Church Lane
Thornhill ON L3T 2G5 CA CANADA

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Frank E. Bunn et al.	:	
Application No. 10/626,888	:	DECISION ON PETITION
Filed: July 25, 2003	:	
Attorney Docket No.	:	

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue and publication fees on or before December 30, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 30, 2010. Accordingly, the date of abandonment of this application is December 31, 2010. A Notice of Abandonment was mailed on January 13, 2011.

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

As to item (3) the statement of unintentional delay is presently not acceptable because the incorrect petition for was submitted. Please refer to PTO/SB/64 attached to this decision.

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

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Frank E. Bunn
26 Church Lane
Thornhill ON L3T 2G5 CA CANADA

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Frank E. Bunn et al.	:	
Application No. 10/626,888	:	DECISION ON PETITION
Filed: July 25, 2003	:	
Attorney Docket No.	:	

This is a decision on the renewed 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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 30, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 30, 2010. Accordingly, the date of abandonment of this application is December 31, 2010. A Notice of Abandonment was mailed on January 13, 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 $755 and the publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

An overpayment of the petition fee will be refunded by treasury check. The refund check will be mailed separately upon processing within the finance department.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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THOMAS J. DOOD
BIONUMERIK PHARMACEUTICALS, INC.
Suite 1250
8122 DATAPOINT
SAN ANTONIO TX 78229

In re Patent No. 6,723,849	:	
Issue Date: April 20, 2004	:	
Application No. 10/627,444	:	NOTICE
Filed: July 25, 2003	:	
Attorney Docket No. X-0224	:	

This is a notice regarding your status request for acceptance of a fee deficiency submission under 37 CFR 1.28 on December 1, 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 has been **ACCEPTED**.

The patent application has been updated to reflect that of Large Entity Status. 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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MAY 20 2011

OFFICE OF PETITIONS

WAGNER, ANDERSON & BRIGHT, PC
3541 OCEAN VIEW BLVD.
GLENDALE CA 91208

In re Patent No. 6,892,987	:	
Issue Date: May 17, 2005	:	
Application No. 10/627,534	:	ON PETITION
Filed: July 25, 2003	:	
Attorney Docket No. D9444	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 1, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 18, 2009 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being referred to Files Repository.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Marc ACHEN et al.	:	
Application No. 10/627,631	:	
Filed: July 28, 2003	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,534,572	:	
Issued: May 19, 2009	:	
Attorney Docket No. 28967/5680D	:	

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

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

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

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

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Paper No.

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Moons	:	
Application No. 10/627,902	:	DECISION ON PETITION
Filed: July 25, 2003	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
AD6883USNA	:	
Title: THERMOPLASTIC	:	
POLYMERIC OVENWARE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 26, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 7, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 8, 2010. A notice of abandonment was mailed on December 21, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, 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 amendment that was received on January 26, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this 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

1 See Rule 1.137(d).

Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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.[2] In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Timothy A. Cassidy
P.O. Box 1449
Greenville, SC 29602

---

2 See 37 C.F.R. § 10.18(b); cf. 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).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Alexandria, VA 22313-1450
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Lawrence M. Green
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,038,590	:
Issue Date: May 2, 2006	: DECISION DISMISSING PETITIONS
Application No. 10/628,094	: UNDER 37 CFR 1.78(a)(3) AND
Filed: July 25, 2003	: REQUEST FOR CERTIFICATE
Attorney Docket No. S01398.70004.US	: OF CORRECTION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the Certificate of Correction.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition fails to satisfy item (1) above. In this regard, The Certificate of Correction accompanying the petition includes a benefit claims to non-provisional application no. 08/786,411. The patent number assigned to non-provisional application no. 08/786,411 is not 5,742, 223. In reviewing the chain of applications to which petitioner is seeking a claim for priority, it does not appear that patent number 5,742,223 shares an inventor in common with patent number 6,239,700. *See* MPEP 201.11 IV. Same inventor or inventors.

Accordingly, a proper Certificate of Correction satisfying the requirements of 37 CFR 1.78(a)(2)(i) must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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

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

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

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

Any questions concerning this matter may be directed to Jose' Dees at (571) 272-1569.

Jose' G Dees
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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DEC 19 2011

OFFICE OF PETITIONS

Lawrence M. Green
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

In re Patent No. 7,038,590
Issue Date: May 2, 2006
Application No. 10/628,094
Filed: July 25, 2003
Attorney Docket No.: S01398.70004.US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE
: OF CORRECTION
:

This is a decision on the renewed petition, filed November 10, 2011, under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application Nos. 08/881,054 and 08/786,411, by way of a certificate of correction.

The petition is **GRANTED**.

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

The instant application was filed July 25, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

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

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

As the 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.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications. A determination that applicant is entitled to claim benefit of the prior-filed applications will be made by the Examiner prior to the mailing of a certificate of correction.

Any inquiries concerning this decision may be directed to Jose G Dees at (571) 272-1569.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

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
10/628,094	07/25/2003	2612	675	S01398.70004.US	2	2

CONFIRMATION NO. 4257

CORRECTED FILING RECEIPT

Lawrence M. Green
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

OC000000051539799

Date Mailed: 12/16/2011

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)

Mark Hoffman, Medfield, MA;
Judd Hoffman, Medfield, MA;
Ann Hoffman, Stoughton, MA;
David Doe, Walpole, MA;

Assignment For Published Patent Application

Hoffman Resources LLC, Boston, MA

Power of Attorney: The patent practitioners associated with Customer Number 23628

Domestic Priority data as claimed by applicant

This application is a CON of 09/284,598 04/16/1999 PAT 6624754
which is a 371 of PCT/US98/00896 01/20/1998
which is a CIP of 08/881,054 06/24/1997 PAT 6239700
and is a CIP of 08/786,411 01/21/1997 PAT 5742233

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: 10/29/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/628,094**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

PERSONAL SECURITY AND TRACKING SYSTEM

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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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UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN H. OLTMAN
#415
915 MIDDLE RIVER DRIVE
FT. LAUDERDALE FL 33304-3585

MAILED
JAN 21 2011
OFFICE OF PETITIONS

In re Patent No. 6,817,202	:	
Issued: November 16, 2004	:	
Application No. 10/628,099	:	ON PETITION
Filed: July 28, 2003	:	
Attorney Docket No. 12994	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 30, 2010 with a certificate of mailing date of November 16, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 17, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to

the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Frank L. Kubler
13261 S.W. 54th Court
Miramar, Florida 33027

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)
7333895	2008-02-19	10628135	2003-07-28	90056(52903)

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Andrew W. Shyjan, Ph.D., Esq./	Date (YYYY-MM-DD)	2012-04-09
Name	Andrew W. Shyjan, Ph.D., Esq.	Registration Number	61294

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7333895
Issue Date: February 19,2008
Application No. 10628135
Filed: July 28,2003
Attorney Docket No. 0074-003001/CORR-003/01US

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

This is a decision on the electronic petition, filed April 9,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 9,2012 .
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)
7333896	2008-02-19	10628137	2003-07-28	90057(52903)

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Andrew W. Shyjan, Ph.D., Esq./	Date (YYYY-MM-DD)	2012-04-04
Name	Andrew W. Shyjan, Ph.D., Esq.	Registration Number	61294

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7333896
Issue Date: February 19,2008
Application No. 10628137
Filed: July 28,2003
Attorney Docket No. 0074-004001/CORR-004/01US

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

This is a decision on the electronic petition, filed April 4,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 4,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MATTHEW J. BOOTH & ASSOCIATES, PLLC
C/O CPA GLOBAL
P.O. BOX 52050
900 SECOND AVENUE SOUTH, SUITE 1560
MINNEAPOLIS MN 55402

In re Patent No. 7,062,587	:	
Issue Date: June 13, 2006	:	
Application No. 10/628,163	:	DECISION ON PETITION
Filed: July 28, 2003	:	
Attorney Docket No. 63479.0118	:	

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

The petition is **GRANTED**.

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

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office. Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DAVID LEWIS**
1250 AVIATION AVENUE
SUITE 200B
SAN JOSE, CA 95110

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	10628229
Filing Date	29-Jul-2003
First Named Inventor	Maurizio Pilu
Art Unit	2452
Examiner Name	PATRICE WINDER
Attorney Docket Number	30019297-2
Title	VISUAL MEDIA VIEWING SYSTEM AND METHOD

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	/Sandra D.M. Brown/
Name	Sandra D.M. Brown
Registration Number	52663

UNITED STATES 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 : July 14,2011

In re Application of :

Maurizio Pilu

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10628229

Filed : 29-Jul-2003

Attorney Docket No : 30019297-2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed July 14,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2452 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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In re Patent No. 7242970
Issue Date: July 10,2007
Application No. 10628272
Filed: July 29,2003
Attorney Docket No. BHT-3111-348

:

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

:

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

The petition is **GRANTED**.

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

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

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)
7,242,970	2007-07-10	10/628,272	2003-07-29	

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

● A sole patentee

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

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/HONG,CHU-CHAI/	Date (YYYY-MM-DD)	2011-09-23
Name	HONG,CHU-CHAI		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Patent No. 6,807,516 :
Issue Date: October 19, 2004 :
Application No. 10/628,353 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. **2604.002US6** :

This is a decision on the petition under 37 CFR 1.378(c), filed January 12, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight October 19, 2008, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is **GRANTED**.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

MAILED
JAN 26 2012
OFFICE OF PETITIONS

In re Patent No. 7,175,187 :
Issue Date: February 13, 2007 :
Application No. 10/628,540 : ON PETITION
Filed: July 28, 2003 :
Patentee: Robert M. Lyden :

This is a decision in response to a petition under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent, filed December 19, 2011.

The petition is **GRANTED**.

This patent expired on February 13, 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).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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. Petitioner is advised that the mere filing of 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, a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) must also be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT M. LYDEN
18261 S.W. FALLATIN LOOP
ALOHA, OR 97007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Edgar R Cataxinos
TraskBritt PC
P O Box 2550
Salt Lake City UT 84110

MAILED
JAN 31 2012
OFFICE OF PETITIONS

In re Application of
Guohua Chen et al.
Application No. 10/628,984
Filed: July 28, 2003
Attorney Docket No. ARC 3119 R1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 24, 2012.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Edgar R. Cataxinos on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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: Durect Corporation
2 Results Way
Cupertino, CA 95014

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
10/628,984	07/28/2003	Guohua Chen	ARC 3119 R1

CONFIRMATION NO. 7536

POWER OF ATTORNEY NOTICE

Edgar R Cataxinos
TraskBritt PC
P O Box 2550
Salt Lake City, UT 84110

OC000000052310798

Date Mailed: 01/31/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2012.

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

/kainabinet/

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

OK TO ENTER: /K.L./

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Paul Adams	Patent No.:	7,537,024
Application No.:	10/629,006	Issue Date:	May 26, 2009
Filed:	July 29, 2003	Attorney Docket No.:	BIC-016
For:	Fuel Cartridge with Connecting Valve		

REQUEST FOR CERTIFICATE OF CORRECTON

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

Applicants submit the enclosed Certificate of Correction to make a minor correction to claim 24. Claim 24 should be amended as follows: "The fuel cell system of claim 1, wherein the inter-component seal is formed between the housing of the first valve component and the housing of the second ~~housing~~valve component."

A request for a Certificate of Correction and the requisite fee are submitted herewith. However, if any additional fees are required then they are hereby authorized to be charged to The H.T. Than Law Group, Deposit Account No. 50-1980.

Respectfully submitted,

Dated: August 8, 2011

/ H.T. Than /

H. T. Than (Reg. No. 38,632)
Attorney for Applicant

The H.T. Than Law Group
Waterfront Center
1010 Wisconsin Avenue, N.W., Suite 560
Washington, D.C. 20007
202-363-2620 (telephone)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE: 08-18-11

TO SPE OF: ART UNIT 3753

SUBJECT: Request for Certificate of Correction for Appl. No. 10/629006 Patent No. 7537024

CoIC 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 (CoIC)
Randolph Square - 9D18-A
Palm Location 7580

Note: _____

_____

Angela Green 571.272.9085
Coff. Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your resolution in 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 /Stephen Hepperle/ Art Unit 3753

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 10/629207	:	ON APPLICATION FOR
Filing or 371(c) Date: 07/29/2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
13935US02	:	

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE, filed September 2, 2010. Applicant requests that the Patent Term Adjustment be changed to reflect 334 days, not 168 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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

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

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

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

---

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Patent Number: 7,865,744	:	DECISION ON APPLICATION
Issue Date: 01/04/2011	:	FOR RECONSIDERATION OF
Application No. 10/629207	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/29/2003	:	
Attorney Docket Number: 13935US02	:	

This is a decision on the petition filed on March 3, 2011, requesting that the patent term adjustment ("PTA") 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 thirty-six (336) 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 three hundred thirty-six (336) days is **DISMISSED**.

On January 4, 2011, the above-identified application matured into U.S. Patent No. 7,865,744. The patent issued with a PTA of 215 days.

Patentee alleges that the reduction in connection with the filing of a Request for Continued Examination ("RCE"), and the reduction pursuant to 37 CFR 1.704(c)(10), are inconsistent with the way the Office calculates all other patent term adjustments, and most reductions, save those calculated under 35 U.S.C. § 154(b)(1)(C) due interferences, secrecy orders and appeals. Patentee avers that by ending the period of adjustment under 35 U.S.C. § 154(b)(1)(B) on the day before the RCE is filed; counting the filing date of the RCE as day 1 that the PTA stops accumulating results in a PTA one day shorter than it should be, and Patentee concludes that the Office policy for calculating the effect of filing a post-allowance paper on accrual of the three-year guarantee is in error and also provides a PTA one day shorter than it should be.

Further as to the reduction pursuant to 37 CFR 1.704(c)(10), in connection with the filing of drawings after the mailing of a Notice of Allowance, Patentee argues that no paper was ever mailed to the applicant in response to the paper submitted on September 2, 2010, and that an entry listed in the file's Transaction History one day later indicates that the application is ready for issue, indicating

that no further delay occurred after that date. As such. Patentee avers that a reduction of one (1) is called for in this situation.

Patentees arguments have been carefully considered. 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 July 30, 2006, and ends on January 10, 2007, the day before the RCE was filed. See, 35 U.S.C. 154(b)(1)(B)(i).

Regarding the reduction pursuant to 37 CFR 1.704(c)(10), Patentees' attention is directed to 35 U.S.C. § 154(b)(2)(C), REDUCTION OF PERIOD OF ADJUSTMENT, and section (iii), which states: "The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application." Pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), the Director prescribed, inter alia, 37 CFR 1.704(c)(10), which states that the submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, shall reduce the period of adjustment set forth in § 1.703 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;

In this instance, patentee does not allege that an Office action or notice in response to the drawings was mailed to Patentee, and pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), and 37 CFR 1.704(c)(10)(ii), the correct period of patent term reduction is properly reduced 120 days, beginning on September 2, 2010, the date that drawings were filed, and ending four months (120 days) thereafter.

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

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
PO BOX 980
VALLEY FORGE PA 19482-0980

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application	:	
Zhang, et al.	:	
Application No. 10/629,308	:	DECISION ON APPLICATION
Filed: July 29, 2003	:	FOR PATENT TERM ADJUSTMENT
Docket No. J&J-100US	:	

This is a decision on the petition under 37 CFR 1.705(b), filed December 22, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eleven (11) days to zero (0) days.

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

On September 24, 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 was eleven (11) days.

The Office initially determined a patent term adjustment of eleven (11) days based on an adjustment for PTO delay of three hundred two (302) days pursuant to 37 CFR 1.703(a)(1), and one hundred eighty-six (186) and nineteen (19) days pursuant to CFR 1.703(a)(2), reduced by fifty-six (56), ninety-six (96), eighty-seven (87), and ninety-one (91) days of applicant delay pursuant to 37 CFR 1.704(b), and seventy-four (74), seventy-five (75), twelve (12) and five (5) days pursuant to 37 CFR 1.704(c)(8).

Applicants point out that they should have been assessed additional days of delay under 37 CFR 1.704(c)(8). Applicants filed a Supplemental IDS on May 14, 2007, after an amendment had been previously filed on January 3, 2007. Accordingly, pursuant to 37 CFR 1.704(c)(8), one hundred thirty-one (131) days of Applicant delay should have been assessed for this filing.

Applicants also point out that they should have been assessed additional delay of seventy-one (71) days pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on April 16, 2010. In reply, Applicants filed an RCE on July 15, 2010, to which the Office responded by mailing another Notice of Allowance on September 24, 2010. Pursuant to 37 CFR 1.704(c)(10), the applicants should be assessed delay "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". Accordingly, Applicant delay of seventy-two (72) days should have been assessed, not seventy-one (71) as noted by Applicants.

Finally, Applicants argue that they should not have been assessed Applicant delay of five (5) days pursuant to 37 CFR 1.704(c)(8), for filing a Terminal Disclaimer on March 22, 2010, after an Amendment had allegedly been filed on March 17, 2010. Applicants assert that the Amendment was in fact filed on March 22, 2010, not March 17, 2010, as noted in PAIR. A review of the Image File Wrapper confirms that Applicants are correct. Accordingly, Applicants should not have been assessed five (5) days of delay with respect to this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (507 (302+186+19) days of PTO delay, reduced by 694 (56+96+131+87+74+91+75+12+72) days of applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen

Patent Term Adjustments

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

Application Number*: 10629308 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10629308

Application Filing Date 07/29/2003	OverLapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 507
A Delays 507	PTO Manual Adjustment -198
B Delays 0	Applicant Delay (APPL) 496
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
170	03/04/2011		P028	Adjustment of PTA Calculation by PTO		198	0
154	09/24/2010		MN/=.	Mail Notice of Allowance			0
153	09/23/2010		IREV	Issue Revision Completed			0
152	09/23/2010		N/=.	Notice of Allowance Data Verification Completed			0
151	09/13/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
150	09/13/2010		DVER	Document Verification			0
149	09/13/2010		CNTA	Allowability Notice			0
147	08/18/2010		DOCK	Case Docketed to Examiner in GAU			0
143	07/22/2010		ABN9	Disposal for a RCE / CPA / R129			0
148	07/15/2010		IDSC	Information Disclosure Statement considered			0
146	07/15/2010		M844	Information Disclosure Statement (IDS) Filed			0
145	07/15/2010		RCAP	Reference capture on IDS			0
144	07/15/2010		RCEX	Request for Continued Examination (RCE)			0
142	07/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
141	07/15/2010		BRCE	Workflow - Request for RCE - Begin			0
140	06/24/2010		FIDC	Finished Initial Data Capture			0
139	05/02/2010		PS74	Paralegal TD Accepted			0
138	04/20/2010		EIDC	Export to Initial Data Capture			0
137	04/16/2010		MN/=.	Mail Notice of Allowance			0
136	04/15/2010		IREV	Issue Revision Completed			0
135	04/15/2010		DVER	Document Verification			0
134	04/15/2010		N/=.	Notice of Allowance Data Verification Completed			0
133	04/15/2010		DOCK	Case Docketed to Examiner in GAU			0
132	04/12/2010		CNTA	Allowability Notice			0
128	03/23/2010		FWDX	Date Forwarded to Examiner			0
130	03/22/2010	03/17/2010	DIST	Terminal Disclaimer Filed		5	127
127	03/17/2010		A.NE	Amendment after Final Rejection			0
131	03/04/2010		IDSC	Information Disclosure Statement considered			0
129	03/04/2010		M844	Information Disclosure Statement (IDS) Filed			0
126	03/04/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
125	01/21/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
124	01/19/2010		CTFR	Final Rejection			0
121	11/14/2009		FWDX	Date Forwarded to Examiner			0
123	10/19/2009		IDSC	Information Disclosure Statement considered			0
122	10/19/2009	10/07/2009	M844	Information Disclosure Statement (IDS) Filed		12	120
119	10/19/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
120	10/07/2009		A...	Response after Non-Final Action			0
118	07/07/2009	06/18/2009	MCTNF	Mail Non-Final Rejection	12		109
117	07/06/2009		CTNF	Non-Final Rejection			0
116	05/08/2009		FWDX	Date Forwarded to Examiner			0
115	05/04/2009	02/18/2009	SA..	Supplemental Response		75	109
112	03/04/2009		FWDX	Date Forwarded to Examiner			0
110	03/04/2009		FWDX	Date Forwarded to Examiner			0
108	03/04/2009		ABN9	Disposal for a RCE / CPA / R129			0
111	02/18/2009		AMPR	RCE- AF Processed			0
109	02/18/2009	11/19/2008	RCEX	Request for Continued Examination (RCE)		91	97
107	02/18/2009		XT/G	Request for Extension of Time - Granted			0
106	02/18/2009		BRCE	Workflow - Request for RCE - Begin			0
105	02/02/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
104	01/30/2009		CTAV	Advisory Action (PTOL-303)			0
103	12/17/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
102	12/16/2008		CTAV	Advisory Action (PTOL-303)			0
101	12/05/2008		FWDX	Date Forwarded to Examiner			0
100	11/19/2008		A.NE	Amendment after Final Rejection			0
99	11/14/2008		C.ADB	Correspondence Address Change			0
98	10/17/2008		C.ADB	Correspondence Address Change			0
97	08/19/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
96	08/18/2008		CTFR	Final Rejection			0
114	07/15/2008		RCAP	Reference capture on IDS			0
113	07/15/2008	05/02/2008	M844	Information Disclosure Statement (IDS) Filed		74	89
93	07/15/2008		IDSC	Information Disclosure Statement considered			0
92	07/15/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
91	06/10/2008		DOCK	Case Docketed to Examiner in GAU			0
90	06/03/2008		FWDX	Date Forwarded to Examiner			0
89	05/02/2008	02/05/2008	A...	Response after Non-Final Action		87	80
88	05/02/2008		XT/G	Request for Extension of Time - Granted			0
94	01/15/2008		IDSC	Information Disclosure Statement considered			0
87	01/15/2008		RCAP	Reference capture on IDS			0
86	01/15/2008		M844	Information Disclosure Statement (IDS) Filed			0
84	01/15/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
95	11/05/2007		IDSC	Information Disclosure Statement considered			0
83	11/05/2007		RCAP	Reference capture on IDS			0
82	11/05/2007		M844	Information Disclosure Statement (IDS) Filed			0
81	11/05/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
80	11/05/2007	05/03/2007	MCTNF	Mail Non-Final Rejection	106		56
79	10/29/2007		CTNF	Non-Final Rejection			0
73	09/10/2007		EOSP	to Close the A/R Record and Reset the Status for Expired Suspensions.			0
74	06/12/2007		FWDX	Date Forwarded to Examiner			0
78	05/14/2007		IDSC	Information Disclosure Statement considered			0
67	05/14/2007		RCAP	Reference capture on IDS			0
66	05/14/2007		M844	Information Disclosure Statement (IDS) Filed			0
65	05/14/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
75	01/30/2007		IDSC	Information Disclosure Statement considered			0
64	01/30/2007		RCAP	Reference capture on IDS			0
63.7	01/30/2007		M844	Information Disclosure Statement (IDS) Filed			0
63	01/30/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
62	01/11/2007		MAISP	Mail Letter Suspending Prosecution at Applicant's Request			0
61	01/10/2007		AISP	Suspension Letter- Applicant Initiated			0

59	01/10/2007		FWDX	Date Forwarded to Examiner			0
57	01/10/2007		FWDX	Date Forwarded to Examiner			0
55	01/10/2007		ABN9	Disposal for a RCE // CPA // R129			0
60	01/03/2007		M856	Letter Requesting Suspension of Prosecution			0
58	01/03/2007		AMSB	Amendment Submitted / Entered with Filing of CPA / RCE			0
56	01/03/2007	09/29/2006	RCEX	Request for Continued Examination (RCE)		96	47
54	01/03/2007		XT/G	Request for Extension of Time - Granted			0
53	01/03/2007		BRCE	Workflow - Request for RCE - Begin			0
52	12/22/2006		MCTAV	Mail Advisory Action (PTOL-303)			0
51	12/21/2006		CTAV	Advisory Action (PTOL-303)			0
50	08/29/2006		FWDX	Date Forwarded to Examiner			0
49	08/21/2006		A.NE	Amendment after Final Rejection			0
48	06/29/2006		MW/AC	Mail Notice of Withdrawn Action			0
47	06/29/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
46	06/27/2006		CTFR	Final Rejection			0
45	06/27/2006		W/AC	Withdrawing/Vacating Office Action Letter			0
44	06/15/2006		MCTNF	Mail Non-Final Rejection			0
43	06/12/2006		CTNF	Non-Final Rejection			0
42	04/04/2006		FWDX	Date Forwarded to Examiner			0
41	03/29/2006		ELC.	Response to Election / Restriction Filed			0
40	03/10/2006		PA..	Change in Power of Attorney (May Include Associate POA)			0
39	03/10/2006		C.AD	Correspondence Address Change			0
38	02/27/2006		MCTRS	Mail Restriction Requirement			0
37	02/21/2006		CTRS	Restriction/Election Requirement			0
33	01/20/2006		FWDX	Date Forwarded to Examiner			0
36	12/23/2005		IDSC	Information Disclosure Statement considered			0
35	12/23/2005		RCAP	Reference capture on IDS			0
34.7	12/23/2005	12/23/2005	M844	Information Disclosure Statement (IDS) Filed			32
34	12/23/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
32	12/23/2005	10/28/2005	A...	Response after Non-Final Action		56	30
31	12/23/2005		XT/G	Request for Extension of Time - Granted			0
30	07/28/2005	09/29/2004	MCTNF	Mail Non-Final Rejection	302		-1
29	07/25/2005		CTNF	Non-Final Rejection			0
28	07/02/2005		DOCK	Case Docketed to Examiner in GAU			0
26	03/10/2005		PA..	Change in Power of Attorney (May Include Associate POA)			0
27	03/09/2005		C.AD	Correspondence Address Change			0
25	01/27/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
24	01/27/2005		DOCK	Case Docketed to Examiner in GAU			0
20	10/25/2004		WROIPE	Application Return from OIPE			0
19	10/25/2004		ROIPE	Application Return TO OIPE			0
18	10/25/2004		WROIPE	Application Return from OIPE			0
17	10/25/2004		COMP	Application Is Now Complete			0
16	10/25/2004		W/OA	Pre-Exam Office Action Withdrawn			0
15	10/25/2004		ROIPE	Application Return TO OIPE			0
14	10/25/2004		WROIPE	Application Return from OIPE			0
13	10/25/2004		COMP	Application Is Now Complete			0
23	05/13/2004		RCAP	Reference capture on IDS			0
22.7	05/13/2004		M844	Information Disclosure Statement (IDS) Filed			0
22	05/13/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
11	11/10/2003		W/OA	Pre-Exam Office Action Withdrawn			0
9	11/10/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
8	11/07/2003		W/OA	Pre-Exam Office Action Withdrawn			0
7	11/06/2003		ROIPE	Application Return TO OIPE			0
5	11/06/2003		COMP	Application Is Now Complete			0
6	11/05/2003		OIPE	Application Dispatched from OIPE			0
4	10/14/2003		CLSS	CASE CLASSIFIED BY OIPE			0
3	10/14/2003		L194	Cleared by OIPE CSR			0
2	09/08/2003		SCAN	IFW Scan & PACR Auto Security Review			0
21	08/15/2003		APE	Preliminary Amendment			0
12	07/29/2003		ADDFLFEE	Additional Application Filing Fees			0
1	07/29/2003		IEXX	Initial Exam Team nn			0

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In re Patent No. 6840000
Issue Date: January 11,2005
Application No. 10629311
Filed: July 28,2003
Attorney Docket No. AKHT121540

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

This is a decision on the electronic petition, filed January 10,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 10,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6840000	2005-01-11	10629311	2003-07-28	AKHT121540

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/###/Michael Akhtar/	Date (YYYY-MM-DD)	2011-01-10
Name	Michael Akhtar		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,775,388	:	
Murrer et al.	:	DECISION ON
Issue Date: August 17, 2010	:	REQUEST FOR
Application No. 10/629,322	:	RECONSIDERATION OF
Filed: July 28, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 034827-3101	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §1.705," filed August 10, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred and ninety-one (791) days to one thousand, eight hundred, and two (1802) 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 one (901) days is **GRANTED to the extent indicated herein.**

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

On August 17, 2010, the above-identified application matured into US Patent No. 7,775,388 with a patent term adjustment of 791 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

Patentee requests recalculation of the patent term adjustment to include a 901-day period of adjustment pursuant to 37 C.F.R. § 1.702(e), and argues that the Office erred in "not crediting the full period of appellate review."[1]

[1] Petition, page 2.

The period of adjustment of 423 (414 + 9) days of examination delay is not in dispute.

The period of reduction of 93 (1 + 2 + 90) days of Applicant delay is not in dispute.

The nine-day period of overlap between the examination delay and the B-delay is not in dispute.

The fact that this patent issued three years and 1481 days after the filing of the application is not in dispute.

The sole item that is in dispute is the effect of the Appellate period of review on the patent term.

The relevant events are as follows:

- On May 5, 2006, a final rejection was mailed, which indicated, *inter alia*, that claims 6-10, 12-19, and 25 were rejected;
- On August 7, 2006, a Notice of Appeal was filed;
- On September 30, 2008, the Board of Patent Appeals and Interferences (Board) mailed a decision which affirmed the Examiner's rejection of claims 6-10, 12-19, and 25;
- On December 1, 2008, Applicant requested reconsideration of the aforementioned decision;
- On January 23, 2009, the Board mailed a Decision on the Request for Reconsideration which affirmed the rejection of claims 6-10, 12-16, and 25. The rejection of claims 17-19 was not affirmed. However, the Board rejected claims 17-19 under a new ground of rejection. No allowable claims remained in the application after this decision by the Board.
- On March 20, 2009, in response to the January 23, 2009 Board decision, Applicant submitted an amendment to the claims and remarks.

Patentee argues that since the Examiner's rejection of claims 17-19 was not affirmed by the Board in the decision mailed January 23, 2009, and the Board raised new grounds of rejection for these claims in this decision, the appellate review was successful within the meaning of 37 C.F.R. § 1.702(e), and the

entire period of appellate review constitutes examination delay pursuant to this Rule.[2]

The Office holds that the appellate period of review does not give rise to examination delay. Moreover, it is not included in the period of B delay.

37 C.F.R. § 1.702(e) sets forth, *in toto*:

> Delays caused by successful appellate review. 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 review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if 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 and the remand is the last action 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. 154(b)(1)(A)(iii), a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(1)(C)(iii), and a final decision in favor of the applicant under § 1.703(e). A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

37 C.F.R. § 1.703(a)(5) sets forth, *in toto*:

> The period of adjustment under § 1.702(a) is the sum of the following periods:
>
> (5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

---

[2] Petition, pages 2 and 4.

37 C.F.R. § 1.703(b)(4) sets forth, *in toto*:

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

The period of Appellate review does not give rise to examination delay pursuant to 37 C.F.R. § 1.702(e) because the appeal was not successful, and the Board did not find in favor of the Applicant: the final office action of May 5, 2006 indicated that claims 6-10, 12-19, and 25 were rejected, and the January 23, 2009 decision on the Request for Reconsideration indicated that each of these claims remained rejected. As such, an adjustment to the patent term is not warranted under 37 C.F.R. § 1.702(e).

Moreover, the Decision on the Request for Reconsideration did not indicate that at least one allowable claims remains in the application. As such, an adjustment to the patent term is not warranted under 37 C.F.R. § 1.703(a)(5).

Finally, pursuant to 37 C.F.R. § 1.703(b)(4), the appellate period (which commenced subsequent to the commencement of the over-three year period) is not included in the period of B delay. A notice of appeal was filed on August 7, 2006, and the Board mailed a decision in response to the request for reconsideration on January 23, 2009. The 901 days of the over three-year period consumed by appellate review, beginning on August 7, 2006 and ending on January 23, 2009, are not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 901 (423 days of examination delay plus 580 (1481 over three-years minus

the aforementioned excluded appellate period of 901 days) B delay minus 93 days of Applicant delay minus 9 days of overlap) days, not 1802 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 **nine hundred and one (901)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,775,388 B2

DATED : **August 17, 2010** **DRAFT**

INVENTOR(S) : Murrer

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 791 days

Delete the phrase "by 791 days" and insert – by 901 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/11/11

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10629368 Patent No.: 7683037

CofC mailroom date: 10/04/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes in the claims be approved?** yes.

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

XXXX ☐ **Approved** — **All** changes apply.

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

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

Comments: The C of C has been approved.

/S. A. Jiang/ — 1623

SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/11/11

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10629368 Patent No.: 7683037

CofC mailroom date: 10/04/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

XXXX ☐ **Approved** — **All** changes apply.

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

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

Comments: The C of C has been approved.

/S. A. Jiang/ — 1623

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.
10/629,571	07/30/2003	Athena Christodoulou	300201988-3	6465

22879 7590 12/17/2010
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
NGUYEN, THUONG

ART UNIT	PAPER NUMBER
2452	

NOTIFICATION DATE	DELIVERY MODE
12/17/2010	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):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.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

Phillip J. Articola
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of: CHRISTODOULOU, A. et. al.
Application No. **10/629,571**
Filed: July 30, 2003
Docket No. 300201988-3
Title: ESTABLISHMENT OF NETWORK CONNECTIONS

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

MAILED

DEC 16 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

This is a decision on the petition filed on February 08, 2008 under 37 CFR § 1.181 requesting: (a) restart the period of reply corresponding to the receipt of the Non-compliant Notice at the correspondence address; and (b) refund of the three-month extension of the time fee that was required for the filing of the response to the Non-compliant notice.

The petition is **DISMISSED AS MOOT**.

Regarding request to restart period for reply, a review of the file of instant application indicates that application is currently docketed at the Board of Patent Appeal and Interferences as per notice mailed May 13, 2010.

Regarding petition's request for refund, petitioner is advised that all questions pertaining to the return of fees are referred to the Refunds Section of the Receipts Division of the Office of Finance. The Refund Branch functions as the receiving office for most refund requests. This Branch is responsible for coordinating, processing and providing status of refund requests, and answering customer inquiries about refunds. For additional information, please visit our web site: http://www.uspto.gov/about/offices/cfo/finance/receipts_division.jsp#heading-3

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

UNITED STATES 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. 7110778
Issue Date: September 19,2006
Application No. 10630050
Filed: July 30,2003
Attorney Docket No. 742007-1010

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

This is a decision on the electronic petition, filed December 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 20,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7110778	2006-09-19	10630050	2003-07-30	742007-1010

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/harold l marquis/	Date (YYYY-MM-DD)	2010-12-20
Name	Harold L. Marquis	Registration Number	43024

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

AUG 16 2010

OFFICE OF PETITIONS

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER CO 80239-0425

In re Patent No. 7,689,485	:	DECISION ON REQUEST
Kanekar, et al.	:	FOR
Issue Date: March 30, 2010	:	RECONSIDERATION OF
Application No. 10/630,178	:	PATENT TERM ADJUSTMENT
Filed: July 29, 2003	:	and
Atty Docket No. **01935**	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, seven hundred and twenty-four (1,724) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and sixty (1,260) days is **GRANTED to the extent indicated herein.**[1]

[1] The period of overlap between the "A" delay and the "B" delay is 575 days. It is noted that, in this case where no Request for Continued Examination was filed, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, from the filing date of the application to the issue date of the patent. It is further noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the relevant periods of "A" delay began September 29, 2004, and ended November 5, 2007, with the second period of relevant "A" delay beginning July 5, 2008, and ending October 24, 2008. The period of "B" delay began July 30, 2006, and ended June 18, 2009. The periods of overlapping delay are: July 29, 2006 through November 5, 2007 (464 days), and July 5, 2008 through October 24, 2008 (111 days). Thus, the period of overlap between the "A" delay and the "B" delay is 575 days and the patent term adjustment is properly reduced by such.

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 Office acknowledges receipt of the $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are due.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, two hundred and sixty (1,260) 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 : 7,689,485 B2

DATED : Mar. 30, 2010

INVENTOR(S) : Kanekar 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 (1835) days

Delete the phrase "by 1835 days" and insert – by 1260 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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MAILED
JAN 11 2011
OFFICE OF PETITIONS

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER, CO 80239-0425

In re Patent No. 7,689,485	:	DECISION ON REQUEST
Kanekar et al.	:	FOR
Issue Date: March 30, 2010	:	RECONSIDERATION OF
Application No. 10/630,178	:	PATENT TERM ADJUSTMENT
Filed: July 29, 2003	:	and
Atty Docket No. 01935	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "Petition to Invoke Supervisor Authority under 37 CFR 1.181" and a decision on the "Petition to Suspend Rules under 37 CFR 1.183", both filed October 8, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, seven hundred and twenty-four (1,724) days.

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

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

The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, seven hundred and twenty-four (**1,724**) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) and the fee set forth in 37 CFR 1.17(f) required for the petition under 37 CFR 1.183.

The amount of $800.00 will be refunded to petitioner, in due course, as there is no fee for the petition under 37 CFR 1.181 and the petition under 37 CFR 1.183 is being dismissed as moot.

The Office will sua sponte issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, seven hundred and twenty-four (1,724) days**.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,689,485 B2

DATED : Mar. 30, 2010

INVENTOR(S) : Kanekar 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 (1835) days

Delete the phrase "by 1835 days" and insert – by 1724 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

In re Patent No. 7094376
Issue Date: August 22,2006
Application No. 10630267
Filed: July 30,2003
Attorney Docket No. 67028-014

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

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

The petition is **GRANTED**.

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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)
7094376	2006-08-22	10630267	2003-07-30	67028-014

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	//John M. Siragusa//	Date (YYYY-MM-DD)	2011-02-04
Name	John M. Siragusa	Registration Number	46174

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

MAILED
NOV 30 2010
OFFICE OF PETITIONS

Rohm and Haas Company
100 Independence Mall West
Philadelphia PA 19106

In re Application of	:	
JACOBSON et al.	:	DECISION ON PETITION
Application No. 10/630,282	:	
Filed: 07/30/2003	:	
Attorney Docket No. A01395	:	

This is a decision on the petition under 37 CFR 1.181, filed March 31, 2010, to withdraw the holding of abandonment in the above-identified application.

On February 1, 2010, the Board of Patent Appeals and Interferences rendered a decision, affirming the Examiner's decision rejecting the appealed claims. Petitioner had two months from the date of the decision of the Board to take appropriate action. On March 8, 2010, the Office mailed a Notice of Abandonment, indicating that the above-identified application was abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on February 1, 2010, and because the period for seeking court review of the decision had expired and there were no allowed claims.

In the present petition, petitioner avers that the Notice of Abandonment was mailed in error and that the holding of abandonment should be withdrawn. Specifically, petitioner asserts: "Under the provisions of 37 C.F.R § 1.304(a)(1), the time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action is two months from the date of the decision of the Board of Patent Appeals and Interferences." *Petition, p. 2.*

Upon further review, petitioner is correct that the application did not become abandoned until April 2, 2010. However, there is nothing in the record to indicate that petitioner took appropriate action on or before April 1, 2010. Accordingly, the application is currently abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on February 1, 2010, and because the period for seeking court review of the decision has expired and there are no allowed claims.

The petition to withdraw the holding of abandonment is **dismissed.** The application will remain in its abandoned state until petitioner files a petition to revive the application, accompanied by an appropriate reply and the petition fee.

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 22 2011
OFFICE OF PETITIONS

HEDMAN & COSTIGAN, P.C.
1230 AVENUE OF THE AMERICAS
7th floor
NEW YORK NY 10020

In re Application of	:	
Navin VAYA et al.	:	ON PETITION
Application No. 10/630,348	:	
Filed: July 29, 2003	:	
Atty. Docket No.: 1296-016		

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application went abandoned for failure to reply in a timely appropriate manner to the final Office action mailed August 31, 2010, which set a shortened statutory period for reply of three (3) months. A 3-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on March 3, 2011. The application became abandoned on March 4, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and submission required under 37 CFR 1.114, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the final Office action mailed August 31, 2010 is accepted as having been unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 1615 for further action on the filed Response.

Andy Knight for
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MELVIN K. SILVERMAN & ASSOC., P.C.
SUITE 500
500 WEST CYPRESS CREEK ROAD
FORT LAUDERDALE FL 33309

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of :
Nilo et al. :
Application No. 10/630,478 :
Patent No.: 7,241,144 :
Filed: July 30, 2003 :
Issued: July 10, 2007 :
Attorney Docket No.: 1065.43 :
Title: METHOD OF BONE EXPANSION :
AND COMPRESSION FOR RECEIVING A :
DENTAL IMPLANT USING THREADED :
EXPANDERS :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 15, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $725.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

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

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Sheridan K. Snedden
Pillsbury Winthrop Shaw Pittman LLP
P.O. Box 10500
McLean, VA 22102

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)
6844550	2005-01-18	10630619	2003-07-29	58884-0305280

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.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Lynn Barringer/	Date (YYYY-MM-DD)	2010-10-13
Name	Lynn Barringer		
Enter Reel and Frame Number		Remove	
Reel Number	024342	Frame Number	0790
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6844550
Issue Date: January 18,2005
Application No. 10630619
Filed: July 29,2003
Attorney Docket No. 58884-0305280

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

This is a decision on the electronic petition, filed October 13,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 13,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/27/10

TO SPE OF : ART UNIT 2877 Toatley Gregory J (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/630734 Patent No.: 7196785

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

XXXX ☐ **Approved** — **All** changes apply.

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

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

Comments: The changes requested by certificate of correction are approved.

/Gregory J. Toatley, Jr./ — **SPE**

AU2877 — **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.
10/630,897	07/31/2003	John L. Waddell JR.	WADDELL 1	9607

1444 7590 06/07/2011
Browdy and Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington, DC 20006

EXAMINER
JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
3641	

MAIL DATE	DELIVERY MODE
06/07/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 07 2011

Browdy & Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington, DC 20006

In re application of	:	**DECISION ON PETITION**
John L. Waddell et al.	:	**TO MAKE SPECIAL**
Application No. 10/630,897	:	**(COUNTER TERRORISM)**
Filed: July 31, 2003		
For: ACOUSTIC SHOCK WAVE ATTENUATING ASSEMBLY		

This is in response to the petition filed on July 31, 2003 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI. The extremely lengthly delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that the invention relates to "a material that can be used to protect objects from the detrimental effects of blasts emanating from explosions, thereby mitigating the effects of a terrorist bombing or setting off of explosives". This is an acceptable explanation of how the invention would act to counter terrorism.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Steven N. Meyers
Quality Assurance Specialist
Technology Center 3600
(571) 272-6611

SNM: 6/5/11

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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SEP 23 2010

OFFICE OF PETITIONS

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago IL 60606

In re Patent No. 7517,886	:	
Issue Date: April 14, 2009	:	
Application No. 10/631,029	:	DECISION ON PETITION
Filed: July 29, 2003	:	
Inventor: Rajinder Singh et al	:	

This is a decision on the petition for expungement of information, filed April 29, 2010, which is being treated as petitions under 37 CFR 1.182 to invalidate an assignment previously recorded against the above-identified application.

The petition is **dismissed**. This is not a final agency action.

Petitioner indicates an assignment recorded on August 15, 2005 was erroneously filed for the above identified application and requests this assignment record be expunged from the file.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through §323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

In regard to B, petitioner has not sufficiently explained how the removal of a document in its entirety will not affect the assignment records. The removal of a document in its entirety will affect the assignment records. The integrity of the records is recognized as separate from the chain of title, and the USPTO endeavors to maintain a complete history of claimed interests in a given property to permit, among other things, the review of matters like chain of title by a competent authority.

Moreover, petitioner seeks an extraordinary remedy, properly addressed under 37 CFR 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP §314). As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR 3.11. However, the recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

In addition, only $200.00 was paid due to the erroneous assumption that the petition was properly filed under 37 CFR 1.59. A petition under 37 CFR 1.59 applies to application files, not assignment records. Thus, a petition to expunge assignment documents is properly addressed under 37 CFR 1.182 and a fee of $400.00 is required. An additional $200.00 has been charged to petitioner's deposit account.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: Gillian Gardner
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland Oregan 97204

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300 South Wacker Drive
Chicago IL 60606

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FEB 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,517,886 :
Issue Date: April 14, 2009 :
Application No. 10/631,029 : DECISION ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. 09-555-US :

This is a decision on the renewed petition for expungement of information, filed November 24, 2010, which is being treated as petitions under 37 CFR 1.182 to invalidate an assignment previously recorded against the above-identified application.

The renewed petition is **dismissed**. This is not a final agency action.

Petitioner indicates an assignment recorded on August 15, 2005 was erroneously filed for the above identified application and requests this assignment record be expunged from the file. Petitioner argues that expungement of the noted assignment would not affect the integrity of the assignment records because the erroneously recorded assignment was in fact a license agreement and license agreements are not assignments.

Petitioner's argument is not convincing as it based on the assumption that assignment and assignment records are one and the same. Assignment records are the records of assignment documents recorded. MPEP 313 states in part:

> **313 [R-3] Recording of Licenses, Security Interests, and Other Documents Other Than Assignments**
>
> In addition to assignments and documents required to be recorded by Executive Order 9424, documents affecting title to a patent or application will be recorded in the Assignment Division of the United States Patent and Trademark Office (Office). Other documents not affecting title may be recorded at the discretion of the Director. 37 CFR 3.11(a).
>
> Thus, some documents which relate to patents or applications will be recorded, although they do not constitute a transfer or change of title. Typical of these documents which are accepted for recording are license agreements and agreements which convey a security interest. Such documents are recorded in the public interest in order to give third parties

> notification of equitable interests or other matters relevant to the ownership of a patent or application.
>
> The recordation of a document is not a determination of the effect of the document on the chain of title. The determination of what, if any, effect a document has on title will be made by the Office at such times as ownership must be established to permit action to be taken by the Office in connection with a patent or an application. See MPEP § 324.

Clearly, documents which are not assignments per se and do not transfer or change title may be recorded as an assignment document. Specifically identified as a type of such document is a license agreement. Therefore, expunging a license agreement that was recorded and became part of the assignment record would affect the integrity of the assignment record. Such an expungement is not allowed.

Petitioner argues that allowing the license agreement to remain in the assignment record would not allow third parties to determine title to pending applications and issued patents. However, as noted in MPEP 313 above, such documents are recorded in the public interest in order to give third parties notification of **equitable interests or other matters relevant to ownership**. This goes beyond petitioner's limited scope of concern over **title** to applications and patent.

For the reasons presented, the petition is dismissed.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121S.W. Salmon Street
Portland, Oregon 97204

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McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Street
Chicago, IL 60606

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,517,886	:
Singh et al.	: DECISION UPON REMAND AND
Issue Date: April 14, 2009	: RECONSIDERATION OF
Application No. 10/631,029	: PATENT TERM ADJUSTMENT
Filed: July 29, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 09-555_US	: TO ISSUE CERTIFICATE OF
Title: Methods of Treating or	: CORRECTION
Preventing Autoimmune Diseases	:
with 2,4-Pyrimidinediamine	
compounds	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand one hundred and six (1106) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred and six (1106) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,517,886

DATED : April 14, 2009 **DRAFT**

INVENTOR(S) : Singh 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 740 days

Delete the phrase "by 740 days" and insert – by 1106 days--

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

Application Number*: 10631029 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10631029

Application Filing Date	07/29/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	04/14/2009	Non-Overlapping USPTO Delays:	990
A Delays	735	PTO Manual Adjustment	366
B Delays	255	Applicant Delay (APPL)	250
C Delays	0	Total PTA (days)	1106

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
104	08/22/2011		P028	Adjustment of PTA Calculation by PTO	366		0
86	04/14/2009	06/12/2008	PTAC	Patent Issue Date Used in PTA Calculation	306		78
86.5	03/25/2009	07/29/2006	PTA36M	PTA 36 Months	255		0
85	03/19/2009		FIDC	Finished Initial Data Capture			0
84	03/19/2009		D1935	Dispatch to FDC			0
83	03/19/2009		D1935	Dispatch to FDC			0
82	07/21/2008		R1021	Receipt into Pubs			0
81	05/30/2008		R1021	Receipt into Pubs			0
79	02/29/2008		PILS	Application Is Considered Ready for Issue			0
78	02/12/2008		N084	Issue Fee Payment Verified			0
77	02/12/2008		BIG.	Statement Filed Indicating a Loss of Entitlement to Small Entity Status			0
76	02/12/2008		IFEE	Issue Fee Payment Received			0
80	12/03/2007		REAS	Response to Reasons for Allowance			0
75	11/20/2007		EIDC	Export to Initial Data Capture			0
74	11/15/2007		MN/=.	Mail Notice of Allowance			0
73	11/10/2007		IREV	Issue Revision Completed			0
72	11/10/2007		N/=.	Notice of Allowance Data Verification Completed			0
71	11/10/2007		DOCK	Case Docketed to Examiner in GAU			0
70	11/10/2007		OVER	Document Verification			0
68	10/15/2007		CNTA	Allowability Notice			0
67	09/18/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
66	09/18/2007		FWDX	Date Forwarded to Examiner			0
65	09/18/2007	09/15/2007	A...	Response after Non-Final Action		3	64
64	06/15/2007		MCTNF	Mail Non-Final Rejection			0
63	06/11/2007		CTNF	Non-Final Rejection			0
62	06/06/2007		IDSC	Information Disclosure Statement considered			0
61	06/06/2007		RCAP	Reference capture on IDS			0
60	06/06/2007	03/08/2007	M844	Information Disclosure Statement (IDS) Filed		90	52
59	06/06/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
58	05/29/2007		MPTDI	Mail-Petition Decision - Dismissed			0
56	05/29/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
57	05/25/2007		C.AD	Correspondence Address Change			0
54	03/15/2007		PG-ISSUE	PG-Pub Issue Notification			0
53	03/14/2007		FWDX	Date Forwarded to Examiner			0
52	03/08/2007	01/02/2007	A...	Response after Non-Final Action		65	50
51	03/08/2007		XT/G	Request for Extension of Time - Granted			0
55	02/21/2007		PET.	Petition Entered			0
50	10/02/2006	06/22/2006	MCTNF	Mail Non-Final Rejection	102		41
49	09/27/2006		CTNF	Non-Final Rejection			0
47	08/24/2006		DOCK	Case Docketed to Examiner in GAU			0
46	04/10/2006		C.AD	Correspondence Address Change			0
45	04/10/2006		PA..	Change in Power of Attorney (May Include Associate POA)			0
42	04/10/2006		FWDX	Date Forwarded to Examiner			0
39	04/10/2006		MNRAB	Mail Notice of Rescinded Abandonment			0
38	04/10/2006		NRAB	Notice of Rescinded Abandonment in TCs			0
37	03/06/2006		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
36	03/03/2006		ABN2	Aband. for Failure to Respond to O. A.			0
35	02/28/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
48	02/22/2006		IDSC	Information Disclosure Statement considered			0
44	02/22/2006		RCAP	Reference capture on IDS			0
43.7	02/22/2006	02/22/2006	M844	Information Disclosure Statement (IDS) Filed			41
43	02/22/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
41	02/22/2006	11/22/2005	A...	Response after Non-Final Action		92	30
40	02/22/2006		XT/G	Request for Extension of Time - Granted			0
30	08/22/2005	09/29/2004	MCTNF	Mail Non-Final Rejection	327		-1

29	08/19/2005	CTNF	Non-Final Rejection	0
27	04/04/2005	MP010	Mail-Record Petition Decision of Granted Related to Filing Date	0
25	02/02/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
24	02/02/2005	DOCK	Case Docketed to Examiner in GAU	0
23	02/02/2005	C.AD	Correspondence Address Change	0
69	12/27/2004	RCAP	Reference capture on IDS	0
31	12/27/2004	IDSC	Information Disclosure Statement considered	0
17.7	12/27/2004	M844	Information Disclosure Statement (IDS) Filed	0
17	12/27/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
15	11/09/2004	WROIPE	Application Return from OIPE	0
14	11/09/2004	ROIPE	Application Return TO OIPE	0
13	11/09/2004	OIPE	Application Dispatched from OIPE	0
12	11/09/2004	COMP	Application Is Now Complete	0
11	11/01/2004	FLFEE	Payment of additional filing fee/Preexam	0
10	11/01/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
8	09/21/2004	PET.	Petition Entered	0
7	09/01/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
34	08/30/2004	IDSC	Information Disclosure Statement considered	0
22.7	08/30/2004	M844	Information Disclosure Statement (IDS) Filed	0
22	08/30/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
21	08/03/2004	LET.	Miscellaneous Incoming Letter	0
33	02/27/2004	IDSC	Information Disclosure Statement considered	0
20.7	02/27/2004	M844	Information Disclosure Statement (IDS) Filed	0
20	02/27/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
32	01/07/2004	IDSC	Information Disclosure Statement considered	0
19	01/07/2004	RCAP	Reference capture on IDS	0
18.7	01/07/2004	M844	Information Disclosure Statement (IDS) Filed	0
18	01/07/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
4	10/13/2003	CLSS	CASE CLASSIFIED BY OIPE	0
3	10/13/2003	L194	Cleared by OIPE CSR	0
2	09/19/2003	SCAN	IFW Scan & PACR Auto Security Review	0
28	07/29/2003	OSPECNFD	Ommited Specification Pages. Applicant has Petitioned that the Filing Date not be changed and the P	0
1	07/29/2003	IEXX	Initial Exam Team nn	0

Export to: Excel

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,978,886	2005-12-27	10/631,046	2003-07-29	135691-1008

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	/Andre M. Szuwalski/	Date (YYYY-MM-DD)	2011-05-27
Name	Andre M. Szuwalski	Registration Number	35701

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. 6978886
Issue Date: December 27,2005
Application No. 10631046
Filed: July 29,2003
Attorney Docket No. 64314-00003USPT

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

This is a decision on the electronic petition, filed May 27,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 27,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH, PA 15222-2613

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Kimberly D. Seaman et al	:	
Application No. 10/631,243	:	DECISION ON PETITION
Filed: July 31, 2003	:	TO WITHDRAW
Attorney Docket No.: 020420	:	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 3, 2010.

The request is **NOT APPROVED**.

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

The request is filed by Daniel R. Miller.

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAY 11 2011
OFFICE OF PETITIONS

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of	:	
Mark E. Boduch et al.	:	DECISION REFUSING STATUS
Application No. 10/631,479	:	UNDER 37 CFR 1.47(a)
Filed: July 31, 2003	:	
Attorney Docket No.	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 12, 2004.

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. Applicant lacks item (1) set forth above.

As to item (1), the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Parilla, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Parilla. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s), such as the Internet. The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventor Parilla's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? At the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Parilla's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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

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

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

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

Telephone inquiries should be directed 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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In re Patent No. 7244447
Issue Date: July 17,2007
Application No. 10631539
Filed: July 30,2003
Attorney Docket No. 43305.12.0.9.1 FKA 3200-0

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

This is a decision on the electronic petition, filed April 3,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 3,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7244447	2007-07-17	10631539	2003-07-30	DRM-009.1US

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Shantanu Basu/	Date (YYYY-MM-DD)	2012-04-03
Name	Shantanu Basu	Registration Number	43318

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Bruce D. Jackson	:	
Application No. 10/631,771	:	DECISION ON PETITION
Filed: August 1, 2003	:	
Attorney Docket No. A8615	:	

This is a decision on the petition, filed April 14, 2011, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within two (2) months of the Notice of Appeal filed October 13, 2010. An Appeal Brief was due on or before December 13, 2010, or, on or before May 13, 2011, with a five (5)-month extension of time. A Notice of Abandonment was mailed March 25, 2011.

Petitioner states that the Notice of Abandonment mailed March 25, 2011 is in error because the petitioner still had time until May 13, 2011 to file an appeal brief with a purchase of a five (5) month extension of time under 37 CFR § 1.136(a).

The file record indicates that a timely response was received n May 13, 2011 which included an appeal brief and fee along with the fee for a five (5) month extension of time.

Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 3651 for appropriate action in the normal course of business on the appeal brief filed on May 13, 2011.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. 7,687,092	:
Camelot et al.	: DECISION ON REQUEST FOR
Issue Date: March 30, 2010	: RECONSIDERATION OF
Application No. 10/631,831	: PATENT TERM ADJUSTMENT
Filed: August 1, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 087258-0301	: TO ISSUE CERTIFICATE OF
Title: ENCAPSULATED CRYSTALLINE	: CORRECTION
LACTIC ACID	:

This is a decision on the petition filed on May 28, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eight hundred eighty-two (1,882) days.

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

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 728 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1337 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed September 28, 2007. The reduction of 644 days commenced September 28, 2007; the date that the Notice of Appeal was filed, and ended July 2, 2009, the day the last decision by the Board of Patent Appeals under 35 U.S.C. 141. See, 37 CFR 1.703(b)(4).

The period of adjustment to which the patent is entitled under 37 CFR 1.702 (e) is 644 days.

Patentee's delay totals 124 days.

In view thereof, the patent is entitled to an overall adjustment of 1941 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand nine hundred forty-one **(1,941)** 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(d). 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 : 7,687,092 B2

DATED : March 30, 2010 **DRAFT**

INVENTOR(S) : Camelot 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 1770 days

Delete the phrase "by 1770 days" and insert – by 1941 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)
7308569	2007-12-11	10632648	2003-08-01	60046.0047US01

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	/Leonard J. Hope/	Date (YYYY-MM-DD)	2012-01-23
Name	Leonard J. Hope	Registration Number	44774

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. 7308569
Issue Date: December 11,2007
Application No. 10632648
Filed: August 1,2003
Attorney Docket No. 60046.0047US01

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

This is a decision on the electronic petition, filed January 23,2012 ,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 23,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KRAMER & AMADO, P.C.
1725 DUKE STREET
SUITE 240
ALEXANDRIA, VA 22314

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Patent No. 6,901,645	:	
Issue Date: June 7, 2005	:	
Application No. 10/632,967	:	DECISION ON PETITION
Filed: August 4, 2003	:	UNDER 37 CFR 1.378(b)
Attorney Docket No. JRO 3001	:	

This is a decision in response to the petition under 37 CFR 1.378(b), filed November 21, 2011, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued June 7, 2005. The first maintenance fee could have been paid from June 7, 2008, through December 8, 2008, or with a surcharge during the period from December 9, 2008 through June 7, 2009. Accordingly, the patent expired at midnight June 7, 2009, for failure to timely submit the first maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

The petition lacks item (1) above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Petitioner argues that the delay in payment of the maintenance fees was unavoidable because communication was lost between the Patentee and his attorneys. Petitioner states that letters were sent to the patentee on June 17, 2008 and November 4, 2008 indicating that the maintenance fee was due by December 9, 2008. Petitioner also states that an e-mail was sent on December 9, 2008 regarding the maintenance fee; however, the e-mail was "bounced back". Accordingly, petitioner explains "Because the Patentee had moved the letters regarding the maintenance fees never reached the Patentee".

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3). Petitioner should note that a delay resulting from the lack of knowledge of the need to pay maintenance fees does not excuse the delay. *See* Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff'd*, Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), *aff'd*, 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The showing of record indicates that counsel allowed the patent to expire because there was no contact with the patentee. Unfortunately, applicant is bound by the consequences of the actions or inactions of his duly authorized and voluntarily chosen representative. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Houston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable. See Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Director to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable. See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992); Ray v. Lehman, supra.

Petitioner has not shown that petitioner was "unavoidably" prevented from acting in this matter from June 7, 2009, until the petition was filed November 21, 2011.
There is no "sliding scale" based upon the priority given to maintaining this patent in force, or more diligently seeking reinstatement, *vis-a-vis* other matters; the issue is solely whether the maintenance, or reinstatement, of the patent at issue was actually conducted with the care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business.

The showing or record is that petitioner was aware or should have been aware that the maintenance fee was due. Why was it unavoidable for petitioner to keep counsel apprised of their current address? Why was it unavoidable for petitioner to check whether the maintenance fee had been paid and, if the fee had not been paid, pay the fee?

Petitioner is advised, however, that the USPTO is not the forum for resolving a dispute between a patent owner and his representative as to who bore the responsibility for paying a maintenance fee. See Ray, 55 F. 3d at 610, 34 USPQ2d at 1789.

Petitioner should note that if this petition is not renewed or if renewed and not granted, then the maintenance fee and post expiration surcharge are refundable. See 37 CFR 1.378(e) and such may be obtain by written request. 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.

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.

/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)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110511

DATE : May 11, 2011

TO SPE OF : ART UNIT 2486

SUBJECT : Request for Certificate of Correction on Patent No.: 7,835,437

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The requested corrections do not introduce new matter, and do not change the scope or meaning of the claims.

/MEHRDAD DASTOURI/
Supervisory Patent Examiner.Art Unit 2486

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,782,940 : DECISION ON APPLICATION FOR
Issued: August 24, 2010 : PATENT TERM ADJUSTMENT
Application No. 10/633,137 :
Filing or 371(c) Date: August 1, 2003 :
Dkt. No.: AH-UTSC: 199-0201US :

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on September 13, 2010 requesting an increase in patent term adjustment from 1876 days to 1907 days.

The petition for reconsideration of the patent term adjustment of 1876 days is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,782,940 on August 24, 2010. The patent issued with a patent term adjustment of 1876 days. The instant application for patent term adjustment was timely filed September 13, 2010. Patentees contest the adjustment accorded the patent pursuant to 37 CFR 1.703(b).

Patentees assert entitlement to 1,222 days pursuant to 37 CFR 1.702(a).

Patentees assert entitlement to 747 days pursuant to 37 CFR 1.702(b).

Patentees assert an applicant delay of 62 days.

37 CFR 1.702(a)(1)

Pursuant to 37 CFR 1.702(a)(1), the patent is entitled to an adjustment of 931 days. The adjustment commenced October 2, 2004 and ended April 20, 2007. See, 37 CFR 1.703(a)(1).

37 CFR 1.702(a)(2)

The patent is not entitled to 291 days of adjustment as asserted by patentees. A notice of appeal was filed March 2, 2009. Non-compliant appeal briefs were filed May 4, 2009, July 13, 2009, and October 21, 2009. A compliant appeal brief was filed March 23, 2010. The Notice of Allowance was mailed June 22, 2010, which is within four months of the filing date of the filing of the compliant brief on March 23, 2010. Accordingly, the patent is not entitled to adjustment pursuant to 37 CFR 1.702(a)(2). See, 37 CFR 1.703(a)(4).

37 CFR 1.702(b)

The period of adjustment pursuant to 37 CFR 1.702(b) commenced August 2, 2006 and ended August 24, 2010 and totals 1,484 days. However, the period of adjustment pursuant to 37 CFR 1.702(b) does not include the period of time accrued during appeal.

37 CFR 1.703(b)(4) states:

> "The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences."

A Notice of Appeal was filed March 2, 2009. A Notice of Allowance was mailed in response thereto on June 22, 2010. As a result of the filing of the Notice of Appeal on March 2, 2009, the three year delay period does not include the appeal period as prescribed by 37 CFR 1.703(b)(4). As the appeal did not result in a decision by the Board, but in the mailing of a Notice of Allowance, the three year period does not include the period of time from the Notice of Appeal to the mailing of the Notice of Allowance, or 478 days.

As patentees have nop been granted any relief, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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. 7074812
Issue Date: July 11,2006
Application No. 10633325
Filed: August 2,2003
Attorney Docket No. ENDO/514US

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

This is a decision on the electronic petition, filed February 3,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 3,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7,074,812	2006-07-11	10/633,325	2003-08-02	ENDO/514US

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	/Nick A Nichols Jr/	Date (YYYY-MM-DD)	2011-02-03
Name	Nick A. Nichols, Jr.	Registration Number	29573

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 13, 2010

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10633339
Patent No.: 7740965

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: _____

1795

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Perman & Green, LLP
99 Hawley Lane
Stratford CT 06614

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Patrick G.l. Perdu	:	
Application No. 10/633351	:	DECISION GRANTING
Filing or 371(c) Date: 08/01/2003	:	PETITION UNDER
OFFLINE MARKLESS POST	:	37 CFR 1.47(b)
PROCESSING OF PRINTED MEDIA	:	

This is in response to the "Request for Reconsideration of Petition Under 37 C.F.R. 1.47(b)," filed October 14, 2010, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has shown that the non-signing inventor, Mr. Patrick Perdu, refuses to join in the application.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

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

The application file is being referred to Technology Center Art Unit 2625 for continued examination in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Cc: Perman & Green, LLP
425 POST ROAD
FAIRFIRLD, CT 06824

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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MR. PATRICK PERDU
HEART TRANSVERTER S.A.
APDO 370
PUNTERENAS, COSTA RICA

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Patrick G.l. Perdu	:	
Application No. 10/633351	:	LETTER
Filing or 371(c) Date: 08/01/2003	:	
OFFLINE MARKLESS POST	:	
PROCESSING OF PRINTED MEDIA	:	

Dear Mr. Perdu:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the inventor.

As the inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: Perman & Green, LLP
99 Hawley Lane
Stratford CT 06614

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wellesley A. Allen
1216 Avonlea Road
Cambridge ON N3H 4Z8 CA **CANADA**

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Wellesley Alexander Allen	:	
Application No. 10/633,359	:	ON PETITION
Filed: August 4, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(a) filed February 2, 2011, to revive 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 $270. If this application is no longer entitled to small entity status, the petition fee required by law is $540.

Since the present petition was not accompanied by the required $270 petition fee, no consideration on the merits can be given to the present petition until the required fee is received.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40I Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions 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

Wellesley A. Allen
1216 Avonlea Road
Cambridge ON N3H 4Z8 CA **CANADA**

MAILED

AUG 04 2011

OFFICE OF PETITIONS

In re Application of	:
Wellesley Alexander Allen	:
Application No. 10/633,359	:DECISION ON PETITION
Filed: August 4, 2003	:TO MAKE SPECIAL UNDER
Attorney Docket No. N/A	: 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 31, 2011, to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **DISMISSED**.

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 present petition includes a statement from the sole inventor that he is 65 years of age or older. However, since the petition does not include a handwritten, typewritten or electronic s-signature of the inventor, this petition cannot be granted at the present time.

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

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

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

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

This application file is being retained in the Office of Petitions for consideration of the renewed petitions filed on various dates under 37 CFR 1.137(a) and (b), in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. All other inquiries concerning the processing of the application should be addressed to the Office of Patent Application Processing at (571) 272-4000.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wellesley A. Allen
1216 Avonlea Road
Cambridge ON N3H 4Z8 CA **CANADA**

MAILED

AUG 25 2011

OFFICE OF PETITIONS

In re Application of	:
Wellesley Alexander Allen	:
Application No. 10/633,359	:DECISION ON PETITION
Filed: August 4, 2003	:TO MAKE SPECIAL UNDER
Attorney Docket No. N/A	: 37 CFR 1.102(c)(1)

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed August 10, 2011, 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 statement from the sole inventor that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

This application file is being retained in the Office of Petitions for consideration of the renewed petitions filed on various dates under 37 CFR 1.137(a) and (b), in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. All other inquiries concerning the processing of the application should be addressed to the Office of Patent Application Processing at (571) 272-4000.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
SEP 15 2011
OFFICE OF PETITIONS

Wellesley A. Allen
1216 Avonlea Road
Cambridge ON N3H 4Z8 CA **CANADA**

In re Application of	:	
Wellesley Alexander Allen	:	
Application No. 10/633,359	:	ON PETITION
Filed: August 4, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under 37 CFR 1.137(a) filed May 25, 2011, and the petition under 37 CFR 1.137(b) filed on May 31, 2011, to revive the above-identified application.

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

In the petition filed on May 25, 2011, petitioner believed that the $270 unavoidable petition fee was unnecessary, since he filed a petition to make special based on age. However, petitioner should note that the $270 petition fee, based on the provisions of 37 CFR 1.137(a), is a requirement even if a petition to make special is filed and granted.
Therefore, since the petition under 37 CFR 1.137(a) was not accompanied by the required petition fee of $270, the merits of the petition under 37 CFR 1.137(a) will not be considered.

With respect to the petition under 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, February 16, 2006, which set a shortened statutory period for reply of three (3) months. Since no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application became abandoned on May 17, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional[1]; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The present petition lack items (2) and (3) above.

[1] Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

With respect to item (3), the petition form filed May 31, 2011, is in incomplete, in that, page 2 which contains the signature and the unintentional statement is missing. 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. Therefore, the petition should be resubmitted and must include page two of the form, which contains the signature of petitioner and the statement required by 37 CFR 1.137(b)(3). A form for complying with the provisions of 37 CFR 1.137(b) is enclosed for petitioner's convenience.

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" and include the missing items noted above. 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 Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

Enclosure: Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) – Form No. PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wellesley A. Allen
1216 Avonlea Road
Cambridge ON N3H 4Z8 CA **CANADA**

MAILED

SEP 30 2011

OFFICE OF PETITIONS

In re Application of
Wellesley Alexander Allen
Application No. 10/633,359
Filed: August 4, 2003
Attorney Docket No. N/A

DECISION ON PETITIONS

This is a decision on the petitions under 37 CFR §§§1.137(a), 1.137(b) and 1.102(c)(1), filed September 22, 2011.

At the request of petitioner, the petition under 37 CFR 1.137(a) is **dismissed as moot**.

The petition under 37 CFR 1.137(b) satisfies the requirement in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810[1]; and (3) a proper statement of unintentional delay. Therefore, the petition under 37 CFR 1.137(b) is **granted**.

Since a decision granting special status under 37 CFR 1.102(c)(1) was mailed on August 25, 2011, the petition under 37 CFR 1.102(c)(1), filed on September 22, 2011, is **dismissed as moot**.

This application file is being referred to Technology Center Art Unit 3653 for further processing in accordance with this decision.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] The $270 overpayment for the petition fee submitted on May 31, 2011, is unnecessary. Thus, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELLESLEY A. ALLEN
1216 AVONLEA ROAD
CAMBRIDGE ON N3H 4Z8 CA CANADA

MAILED
JAN 06 2012
OFFICE OF PETITIONS

In re Application of ALLEN Application No. 10/633,359 Filed: August 4, 2003 For: MANUALLY OPERATED PILL DISPENSER	:	DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed December 16, 2011.

The request is **GRANTED**.

In the Office decision mailed September 30, 2011, it stated that the petition under 37 CFR 1.137(a) was dismissed as moot and that applicant may request a refund of the $270.00 petition fee paid on May 31, 2011.

In view of the above, the petition fee of $270.00 is being refunded by check as applicant indicated that the credit card used for the petition fee is no longer active.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JAN 09 2012
OFFICE OF PETITIONS

WELLESLEY A. ALLEN
1216 AVONLEA ROAD
CAMBRIDGE ON N3H 4Z8 CA CANADA

In re Application of	:	
ALLEN	:	
Application No. 10/633,359	:	DECISION ON REQUEST FOR REFUND
Filed: August 4, 2003	:	
For: MANUALLY OPERATED PILL	:	
DISPENSER	:	

This is a supplemental decision on the Request For Refund filed December 16, 2011.

The request is **GRANTED**.

In the Office decision mailed September 30, 2011, it stated that the petition under 37 CFR 1.137(a) was dismissed as moot and that applicant may request a refund of the $270.00 petition fee paid on May 31, 2011.

Applicant request that the refund be by check because the credit card is no longer active. However, credit card refunds need to be applied back to the credit card. The Credit Card Company will either forward the refund to the cardholder or reject the refund and return the funds to the USPTO at which time the Office of Finance will reissue the refund by check.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 30 2012

OFFICE OF PETITIONS

Wellesley A. Allen
1216 Avonlea Road
Cambridge ON N3H 4Z8 CA CANADA

In re Application of
Wellesey Alexander Allen
Application No.: 10/633,359
Filed: August 4, 2003
Attorney Docket No.:
For: MANUALLY OPERATED PILL DISPENSER

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(a)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed September 22, 2011, to make the above-identified application special.

The request and petition are **DENIED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the UK IPO, note where the UK IPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the UK IPO application with similar claims and the UK IPO priority application;

(2) Applicant must submit a copy of:
The allowable/patentable claim(s) from the UK IPO application(s);

(3) Applicant must:
a. Ensure 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 UK IPO application(s); and
b. Submit a claims correspondence table;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
A copy of all of the office actions from each of the UK IPO application(s) containing the allowable/patentable claims that are the basis for the request or request that the USPTO

obtain a copy from the UK IPO. If the USPTO is not able to obtain a copy of all of the office actions from the UK IPO, the applicant will be notified and requested to provide the necessary documents.

(6) Applicant must submit:

a. An IDS listing the documents cited by the UK IPO examiner in the UK IPO office action (unless already submitted in this application); and
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application)

The request to participate in the PPH pilot program and petition fails to meet condition (4) above.

Regarding the requirement of condition (4), an Office action was mailed on February 16, 2006. Therefore, since examination of the U.S. application has begun, the request filed September 22, 2011, to make the above-identified application special cannot be granted and is hereby **DENIED**.

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

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.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110218

DATE : February 15, 2011

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,778,680

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:

/Charles A. Marmor, II/
Supervisory Patent Examiner, Art Unit 3735

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,778,680

APPLICATION NO. : 10/633,367

ISSUE DATE : August 17, 2010

INVENTOR(S) : Goode, et al.

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

Issued Patent		Description of Discrepancy
Column	Line	
Page 1 (Item 56) Col. 1	4	Under U.S. Patent Documents, change "Mullin" to --Mullins--.
Page 1 (Item 56) Col. 2	10	Under Other Publications, change "Endocinol" to --Endocrinol--.
(Item 56) Page 5 Col. 1	63	Under Other Publications, change "Aniodic" to --Anodic--.
(Item 56) Page 5 Col. 1	69	Under Other Publications, change "Reproductivity" to --Reproducibility--.
(Item 56) Page 5 Col. 2	2	Under Other Publications, change "129-130." to --129-130, 2001.--.
(Item 56) Page 5 Col. 2	4	Under Other Publications, change "electodes" to --electrodes--.
(Item 56) Page 5 Col. 2	11	Under Other Publications, change "radiotelemtric" to --radiotelemetric--.
(Item 56) Page 5 Col. 2	25	Under Other Publications, change "Implatation" to --Implantation--.
(Item 56) Page 6 Col. 1	3	Under Other Publications, change "allophyocyanin" to --allophycocyanin--.
(Item 56) Page 6 Col. 1	6	Under Other Publications, change "differntial" to --differential--.

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.016A

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,778,680
APPLICATION NO. : 10/633,367
ISSUE DATE : August 17, 2010
INVENTOR(S) : Goode, et al.

(Item 56) Page 6 Col. 1	11	Under Other Publications, change "electrode." to --electrodes.--.
(Item 56) Page 6 Col. 1	13	Under Other Publications, change "Towars continous" to --Towards continuous--.
(Item 56) Page 6 Col. 1	19	Under Other Publications, change "interfereing substance." to --interfering substances.--.
(Item 56) Page 6 Col. 1	26	Under Other Publications, change "Cos" to --Cox--.
(Item 56) Page 6 Col. 1	27	Under Other Publications, after "coming" delete "of".
(Item 56) Page 6 Col. 1	28	Under Other Publications, change "contious" to --continuous--.
(Item 56) Page 6 Col. 1	29	Under Other Publications, change "glucosee" to --glucose--.
(Item 56) Page 6 Col. 1	31	Under Other Publications, change "Biomaterilas" to --Biomaterials--.
(Item 56) Page 6 Col. 1	35	Under Other Publications, change "sensor" to --sensors--.
(Item 56) Page 6 Col. 1	38	Under Other Publications, change "pancrease" to --pancreas--.
(Item 56) Page 6 Col. 1	51	Under Other Publications, change "Ausseday" to --Aussedat--.
(Item 56) Page 6 Col. 1	68	Under Other Publications, change "reggedness" to --ruggedness--.

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.016A

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,778,680

APPLICATION NO. : 10/633,367

ISSUE DATE : August 17, 2010

INVENTOR(S) : Goode, et al.

(Item 56) Page 6 Col. 2	3	Under Other Publications, after "of" insert --a--.
(Item 56) Page 6 Col. 2	33	Under Other Publications, change "characterizaion. Biosensor" to --characterization. Biosensors--.
(Item 56) Page 6 Col. 2	35	Under Other Publications, change "continous" to --continuous--.
(Item 56) Page 6 Col. 2	44	Under Other Publications, change "biologial" to --biological--.
(Item 56) Page 6 Col. 2	51	Under Other Publications, after "of" insert --the--.
(Item 56) Page 6 Col. 2	55	Under Other Publications, change "stud." to --study.--.
(Item 56) Page 7 Col. 1	7	Under Other Publications, change "peturbation" to --perturbation--.
(Item 56) Page 7 Col. 1	17	Under Other Publications, before "Amperometric" insert --1994.--.
(Item 56) Page 7 Col. 1	40	Under Other Publications, change "of" to --to--.
(Item 56) Page 7 Col. 1	40	Under Other Publications, change "month" to --months--.
(Item 56) Page 7 Col. 1	51	Under Other Publications, change "And" to --An--.
(Item 56) Page 7 Col. 1	63	Under Other Publications, change "Inhibiton" to --Inhibition--.

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.016A

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,778,680
APPLICATION NO. : 10/633,367
ISSUE DATE : August 17, 2010
INVENTOR(S) : Goode, et al.

(Item 56) Page 7 Col. 1	71	Under Other Publications, after "of" insert --a--.
(Item 56) Page 7 Col. 2	11	Under Other Publications, after "of" insert --an--.
(Item 56) Page 7 Col. 2	23	Under Other Publications, change "gluose" to --glucose--.
(Item 56) Page 7 Col. 2	46	Under Other Publications, change "9:L37-43." to --9:37-43.--.
(Item 56) Page 7 Col. 2	50	Under Other Publications, change "gavanic" to --galvanic--.
(Item 56) Page 7 Col. 2	58	Under Other Publications, change "Reproductibility" to --Reproducibility--.
(Item 56) Page 8 Col. 1	11	Under Other Publications, after "for" delete "an".
(Item 56) Page 8 Col. 1	16	Under Other Publications, change "eletrode" to --electrode--.
(Item 56) Page 8 Col. 1	23	Under Other Publications, change "independence" to --independent--.
(Item 56) Page 8 Col. 1	32	Under Other Publications, change "Close" to --Closed--.
(Item 56) Page 8 Col. 1	56	Under Other Publications, change "Science," to --Sciences,--.
(Item 56) Page 8 Col. 1	71	Under Other Publications, change "#" to --®--.

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.016A

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,778,680
APPLICATION NO. : 10/633,367
ISSUE DATE : August 17, 2010
INVENTOR(S) : Goode, et al.

(Item 56) Page 8 Col. 2	10	Under Other Publications, after "enzyme" insert --electrode--.
(Item 56) Page 8 Col. 2	31	Under Other Publications, change "vivo" to --vitro--.
(Item 56) Page 9 Col. 1	3	Under Other Publications, before "analogs" delete "infusion using insulin".
(Item 56) Page 9 Col. 1	65	Under Other Publications, change "Thechnol." to --Technol.--.
(Item 56) Page 9 Col. 2	2	Under Other Publications, change "dynamcs" to --dynamics--.
(Item 56) Page 9 Col. 2	14	Under Other Publications, change "Thechnol." to --Technol.--.
(Item 56) Page 9 Col. 2	33	Under Other Publications, change "assitance" to --assistance--.
(Item 56) Page 9 Col. 2	34	Under Other Publications, change "Thechnol." to --Technol.--.
(Item 56) Page 9 Col. 2	52	Under Other Publications, change "Senso" to --Sensor--.
(Item 56) Page 10 Col. 1	24	Under Other Publications, change "Membran" to --Membrane--.
20	3	Change "andrenostenedione" to --androstenedione--.
20	17	Change "diptheria/" to --diphtheria/--.
20	24	Change "perioxidase" to --peroxidase--.
20	33	Change "sissomicin" to --sisomicin--.

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.016A

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,778,680

APPLICATION NO. : 10/633,367

ISSUE DATE : August 17, 2010

INVENTOR(S) : Goode, et al.

20	37-38	Change "duodenalisa" to --duodenalis--.
20	45	Change "Trepenoma pallidium" to --Treponema pallidum--.
20	46	Change "stomatis" to --stomatitis--.
20	67	Change "barbituates" to --barbiturates--.
29	56	Change "corn" to --com--.
31	67	After "10" insert --.--.
41	55-62 (Approx.)	$$R = \frac{\sum_i (x_i - \bar{x})(y_i - \bar{y})}{\sqrt{\sum_i (x_i - x)^2}\sqrt{\sum_i y_i - y)^2}}$$ Change " " to -- $$R = \frac{\sum_i (x_i - \bar{x})(y_i - \bar{y})}{\sqrt{\sum_i (x_i - x)^2}\sqrt{\sum_i (y_i - y)^2}}$$ --.
43	10	In Claim 1, change "configures" to --configured--.
44	7	In Claim 14, before "method" insert --The--.
44	26 (Approx.)	In Claim 19, after "evaluating" insert --at least one of--.
44	64	In Claim 26, change "further is" to --is further--.
45	4	In Claim 28, change "claim 7," to --claim 27,--.
45	20	In Claim 31, change "and/or" to --or a--.

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.016A

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,778,680
APPLICATION NO. : 10/633,367
ISSUE DATE : August 17, 2010
INVENTOR(S) : Goode, et al.

10254623
010511

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.016A

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/27/11

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10634148 Patent No.: 7366154

CofC mailroom date: 12/16/11

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
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes be made?**

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: _____

_____

_____

_____

_____

/Nay Maung/ — 2618

SPE — **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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RESEARCH TRIANGLE PARK NC 27709

In re Application of	:
Baldiga, et al.	: DECISION ON PETITION
Application No. 10/634,261	:
Filed: August 5, 2003	:
Atty. Dkt. No.: RSW920030052US1	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 28, 2012.

The Notice of Abandonment mailed December 30, 2011 indicates that the application is abandoned for failure to timely reply to the Notice of Allowance mailed September 9, 2011.

Petitioners assert a proper reply to the Notice was timely submitted December 8, 2011.

Petitioner's arguments have been carefully considered and found persuasive. In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/4/2011

TO SPE OF : ART UNIT 2191 Zhen Wei (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/634304 Patent No.: 7840938

CofC mailroom date: 4/29/11

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

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: All changes approved except the changes at column 11, line number 19 because this change changes the scope of the claims.

SPE

2191
Art Unit

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AUG 12 2011
OFFICE OF PETITIONS

MARK A. WOLFE
1076 TAMBERWOOD COURT
WOODBURY, MN 55125

In re Patent No. 7,257,604	:	
Issue Date: August 14, 2007	:	
Application No. 10/634,318	:	ON PETITION
Filed: August 5, 2003	:	
Attorney Docket No. 324	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 02 2011

OFFICE OF PETITIONS

Straub & Pokotylo
788 Shrewsbury Avenue
Tinton Falls NJ 07724

In re Application of :
Anderson et al. :
Application No. 10/634,501 :
Filed: August 5, 2003 :
Attorney Dkt. No. GOOGLE-54(GP-064-06-US) :
For: SERVING CONTENT-RELEVANT ADVERTISEMENTS WITH CLIENT-SIDE DEVICE SUPPORT :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR §1.705," filed November 10, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from zero (0) days to one thousand two hundred forty-six (1,246) days.

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

Applicants contend that the reduction required for the abandonment of the application is 0 days, not 645 days. Further applicants contend that Office delay for mailing the final rejection should be increased to 861 days based upon the submission of the response to the non-final rejection of August 10, 2006.

A review of the application history shows a reduction of 0 days, is warranted for the abandonment of the application pursuant to 37 CFR § 1.704(c)(3)(i). The record shows that the holding of abandonment was withdrawn. The response to the non-final Office action was received in the Office on August 14, 2006 was determined to have been timely. Thus, the 645 day reduction will be removed.

However, it is noted that pursuant to 37 CFR 704(b)a reduction of 96 days is warranted. 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 96 days for the submission of reply on August 14, 2006 is warranted. The patent term should have been assessed a reduction of 96 days, the number of days in excess of three months that was taken to reply to the February 10, 2006 non-final Office action. Accordingly, a 96 day reduction will be entered.

It should be noted that the date of receipt of a reply is the date used. In this instance the date of receipt of the response was August 14, 2006, not August 10, 2006. The Office notes that the date of filing of a paper will be used in calculating any periods of reduction of patent term adjustment. If applicant wanted to avoid a reduction applicant should have considered the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant could have chosen to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

Applicants also contend that Office delay in response to the August 10, 2006 response should result in an adjustment of 861 days not 212 days pursuant to 37 CFR 1.703(a)(3).

A review of the record shows that the adjustment of 858 days is warranted. 37 CFR 1.702(a)(2) 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:
>
> > Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

In this instance, the Office took until April 20, 2009 to mail a final Office action in response to the response to the non-final Office action filed August 14, 2006. Pursuant to 37 CFR §1.703(a)(2), a period of adjustment of eight hundred fifty-eight (858) days, counting the number of days in the period beginning on the day after the date that is four months after the date a reply was filed, December 15, 2006, and ending on the date of mailing of an action under 35 U.S.C. 132, April 20, 2009, should have been entered. As such the 212 day adjustment will be removed and a 858 day adjustment will be entered.

At the time of mailing of the Notice of Allowance, applicants' delay totals 416 (94 + 96 + 106 + 92 + 28) days and Office delay totals 1351 (493 + 858) days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is **nine hundred thirty-five (935)** 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 the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

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

Application Number*: 10634501 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10634501

Application Filing Date	08/05/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	705
A Delays	705	PTO Manual Adjustment	1195
B Delays	0	Applicant Delay (APPL)	965
C Delays	0	Total PTA (days)	935

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
135	06/02/2011		P028	Adjustment of PTA Calculation by PTO	858		0
134	06/02/2011		P028	Adjustment of PTA Calculation by PTO		212	0
133	06/02/2011		P028	Adjustment of PTA Calculation by PTO		96	0
132	06/02/2011		P028	Adjustment of PTA Calculation by PTO	645		0
119	08/11/2010		MN/=.	Mail Notice of Allowance			0
118	08/10/2010		DVER	Document Verification			0
117	08/10/2010		IREV	Issue Revision Completed			0
116	08/10/2010		N/=.	Notice of Allowance Data Verification Completed			0
115	08/04/2010		CNTA	Allowability Notice			0
108	07/31/2010		ABN9	Disposal for a RCE / CPA / R129			0
112	07/28/2010		IDSC	Information Disclosure Statement considered			0
111	07/28/2010		RCAP	Reference capture on IDS			0
110	07/28/2010		M844	Information Disclosure Statement (IDS) Filed			0
109	07/28/2010		RCEX	Request for Continued Examination (RCE)			0
107	07/28/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
106	07/28/2010		BRCE	Workflow - Request for RCE - Begin			0
105	06/16/2010		FIDC	Finished Initial Data Capture			0
104	05/04/2010		EIDC	Export to Initial Data Capture			0
103	04/29/2010		MN/=.	Mail Notice of Allowance			0
102	04/28/2010		IREV	Issue Revision Completed			0
101	04/17/2010		N/=.	Notice of Allowance Data Verification Completed			0
100	04/17/2010		DOCK	Case Docketed to Examiner in GAU			0
99	04/17/2010		DVER	Document Verification			0
98	04/17/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
97	04/12/2010		CNTA	Allowability Notice			0
94	04/09/2010		FWDX	Date Forwarded to Examiner			0
93	03/09/2010	02/09/2010	A...	Response after Non-Final Action		28	91
92	03/09/2010		XT/G	Request for Extension of Time - Granted			0
91	11/09/2009		MCTNF	Mail Non-Final Rejection			0
90	11/03/2009		CTNF	Non-Final Rejection			0
86	10/23/2009		FWDX	Date Forwarded to Examiner			0
84	10/23/2009		FWDX	Date Forwarded to Examiner			0
82	10/23/2009		ABN9	Disposal for a RCE / CPA / R129			0
89	10/21/2009		IDSC	Information Disclosure Statement considered			0
88	10/21/2009		RCAP	Reference capture on IDS			0
87	10/21/2009		M844	Information Disclosure Statement (IDS) Filed			0
75	10/21/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
85	10/20/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
83	10/20/2009	07/20/2009	RCEX	Request for Continued Examination (RCE)		92	73
76	10/20/2009		XT/G	Request for Extension of Time - Granted			0
74	10/20/2009		BRCE	Workflow - Request for RCE - Begin			0
73	04/20/2009	09/20/2008	MCTFR	Mail Final Rejection (PTOL - 326)	212		67
72	04/17/2009		CTFR	Final Rejection			0
69	03/31/2009		DOCK	Case Docketed to Examiner in GAU			0
65	02/27/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
68	02/26/2009		FWDX	Date Forwarded to Examiner			0
64	02/26/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
63	12/02/2008		MM327	Mail Miscellaneous Communication to Applicant			0
62	12/01/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
60	11/20/2008		C.ADB	Correspondence Address Change			0
59	10/07/2008		C.ADB	Correspondence Address Change			0
70	09/03/2008	05/20/2008	M844	Information Disclosure Statement (IDS) Filed		106	67
61	09/03/2008		IDSC	Information Disclosure Statement considered			0
58	09/03/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
57	08/20/2008		DOCK	Case Docketed to Examiner in GAU			0

56	06/09/2008		MPREV	Mail-Petition to Revive Application - Granted			0
55	06/09/2008		PREV	Petition to Revive Application - Granted			0
67	05/20/2008	08/14/2006	A...	Response after Non-Final Action		645	37
66	05/20/2008		XT/G	Request for Extension of Time - Granted			0
54	05/20/2008		PET.	Petition Entered			0
50	05/07/2008		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
49	05/06/2008		ABN2	Aband. for Failure to Respond to O. A.			0
53	04/15/2008		M844	Information Disclosure Statement (IDS) Filed			0
48	04/15/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
47	03/11/2008		DOCK	Case Docketed to Examiner in GAU			0
52	02/11/2008		RCAP	Reference capture on IDS			0
51	02/11/2008		M844	Information Disclosure Statement (IDS) Filed			0
45	02/11/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
44	07/16/2007		RCAP	Reference capture on IDS			0
43	07/16/2007		M844	Information Disclosure Statement (IDS) Filed			0
42	07/16/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
41	02/09/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
40	02/05/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
39	10/30/2006		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
38	08/23/2006		FWDX	Date Forwarded to Examiner			0
35	08/15/2006		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
37.1	08/14/2006		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
37	08/14/2006		A...	Response after Non-Final Action			0
36	08/14/2006		XT/G	Request for Extension of Time - Granted			0
34	08/08/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
33	06/27/2006		DOCK	Case Docketed to Examiner in GAU			0
32	02/10/2006	10/05/2004	MCTNF	Mail Non-Final Rejection	493		-1
31	11/23/2005		IDSC	Information Disclosure Statement considered			0
28	11/23/2005		RCAP	Reference capture on IDS			0
27.7	11/23/2005		M844	Information Disclosure Statement (IDS) Filed			0
27	11/23/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
26	10/06/2005		DOCK	Case Docketed to Examiner in GAU			0
23	07/25/2005		CTNF	Non-Final Rejection			0
30	07/18/2005		IDSC	Information Disclosure Statement considered			0
25	07/18/2005		RCAP	Reference capture on IDS			0
24.7	07/18/2005		M844	Information Disclosure Statement (IDS) Filed			0
24	07/18/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
29	02/28/2005		IDSC	Information Disclosure Statement considered			0
21.7	02/28/2005		M844	Information Disclosure Statement (IDS) Filed			0
21	02/28/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
20	11/11/2004		C.ADB	Correspondence Address Change			0
19	10/06/2004		DOCK	Case Docketed to Examiner in GAU			0
18	09/15/2004		DOCK	Case Docketed to Examiner in GAU			0
17	06/02/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	06/02/2004		DOCK	Case Docketed to Examiner in GAU			0
15	05/18/2004		WROIPE	Application Return from OIPE			0
14	05/18/2004		ROIPE	Application Return TO OIPE			0
13	05/18/2004		OIPE	Application Dispatched from OIPE			0
12	05/18/2004		COMP	Application Is Now Complete			0
11	05/07/2004	02/03/2004	FLFEE	Payment of additional filing fee/Preexam		94	9
10	05/07/2004		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
9	11/03/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
7	11/03/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	11/03/2003		C.AD	Correspondence Address Change			0
4	10/22/2003		CLSS	CASE CLASSIFIED BY OIPE			0
3	10/22/2003		L194	Cleared by OIPE CSR			0
8	10/14/2003		RESC	Rescind Nonpublication Request for Pre Grant Publication			0
2	09/18/2003		SCAN	IFW Scan & PACR Auto Security Review			0
6	08/05/2003		NPRQ	PGPubs nonPub Request			0
1	08/05/2003		IEXX	Initial Exam Team nn			0

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TINTON FALLS NJ 07724

MAILED
JUL 07 2011
OFFICE OF PETITIONS

In re Application of Darrell Anderson et al Application No. 10/634,501 Filed: August 5,2003 Attorney Docket No. GOOGLE-54(GP-064-06-US)	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 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 on November 11, 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 2156 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/7/09

TO SPE OF : ART UNIT 2853 Stephen Meier (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/634503 Patent No.: 6863372

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

H. Plop
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE

2853
Art Unit

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141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,572,126	:	FINAL AGENCY DECISION
Bihua Liu	:	ON
Issue Date: 08/11/2009	:	REQUEST FOR RECONSIDERATION
Application Number: 10/634,526	:	OF
Filed: 08/05/2003	:	DECISION ON APPLICATION
Attorney Docket Number:	:	FOR
1365-US	:	PATENT TERM ADJUSTMENT

This is a decision on the "RESPONSE TO APRIL 30, 2010 DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed on May 28, 2010, requesting reconsideration of the decision of April 30, 2010, and requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be increased by 212 days, from 1229 days to 1441 days.

The request for reconsideration of the decision of April 30, 2010, is granted to the extent that the decision of April 30, 2010, has been reconsidered; however, the request for reconsideration is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 1229 days indicated in the decision of April 30, 2010. This decision is a final agency action within the meaning of 5 U.S.C. § 704 and for purposes of seeking judicial review. *See* MPEP 1002.02.

BACKGROUND

On June 17, 2005, a notice of allowance was mailed in the subject application.

On September 8, 2005, the issue fee was paid.

On June 20, 2007, a Notice of Withdrawal From Issue Under 37 CFR 1.313 was mailed, stating that the application had been withdrawn from issue after payment of the issue fee to permit reopening of prosecution.

On July 16, 2007, a non-final Office action was mailed, stating, that the indication of allowability of Claims 16-25 was withdrawn in view of newly discovered references.

On January 14, 2009, a notice of allowance was mailed.

On February 27, 2009, the issue fee was paid.

On August 11, 2009, the application issued as U.S. Patent No. 7,572,126.

On August 21, 2009, an application for patent term adjustment was filed.

On April 30, 2010, the application for patent term adjustment was granted-in-part.

On May 28, 2010, the subject request for reconsideration was filed.

Patentee asserts, in pertinent part,

> [T]he Office took more than twenty-one (21) months from the date the issue fee was paid (September 8, 2005) to issue a Notice of Withdrawal from Issue. According to the logic of the decision, the Office could have taken any amount of time to issue a Notice of Withdrawal from Issue without having to compensate Applicant with any patent term adjustment as long as the Notice is mailed by the date that is three years after the application filing date. This kind of delay is clearly a mistake of the Office, and is similar to the delay when the Office takes more than four months to issue an action after a reply under § 1.111 has been filed. Therefore, Applicant submits that a period of adjustment of patent term due to examination delay starts from the day after the date that is four months after the date on which the issue fee was paid (i.e. January 8, 2006) and ending on the date that is three years after the application filing date (August 5, 2006), totalling 212 days.

STATUTE, REGULATIONS AND POLICY

35 U.S.C. 154(b)(1)(A)(iv) states:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to — issue a patent within 4 months after the date on which the issue fee was paid under section 151 **and all outstanding requirements were satisfied**, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

37 CFR 1.702(a)(4) states:

> *Failure to take certain actions within specified time frames.* Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to: Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 **and all outstanding requirements were satisfied**.

37 CFR 1.703(a)(6) states:

> The period of adjustment under § 1.702(a) is the sum of the following periods: The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid **and all outstanding requirements were satisfied** and ending on the date a patent was issued.

MPEP 2731 states, in pertinent part:

> 37 CFR 1.703(a)(6) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(iv) and specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent was issued. The date the issue fee was paid and all outstanding requirements were satisfied is the later of the date the issue fee was paid or the date all outstanding requirements were satisfied.

> Note that the filing of a priority document (and processing fee) is not considered an outstanding requirement under 35 U.S.C. 154(b)(1)(A)(iv) and 37 CFR 1.703(a)(6) because if the priority document is not filed the patent simply issues without the priority claim (the application is not abandoned) and since no petition is required to add a priority claim after payment of the issue fee. **If prosecution in an application is reopened after allowance (see MPEP § 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (see MPEP § 1308).**
>
> (emphasis added)

OPINION

Petitioner's argument that an additional period of adjustment for Office delay is due in connection with the withdrawal of the application from issue, and the subsequent allowance of the application, has been considered, but is not persuasive.

As noted in the *Federal Register*, Section 1.703(a)(6) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(iv). Section 1.703(a)(6) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent was issued. The date the issue fee was paid and all outstanding requirements were satisfied is the later of the date the issue fee was paid or the date all outstanding requirements were satisfied. **If prosecution in an application is reopened after allowance (see MPEP 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (see MPEP 1308).**[1]

On September 8, 2005, the issue fee was paid. On June 20, 2007, however, a Notice of Withdrawal from Issue 37 CFR 1.313 was mailed, indicating that the application is withdrawn from issue to permit reopening of prosecution. On July 16, 2007, an Office action was mailed stating that the allowability of claims 16-25 is withdrawn in view of newly discovered references. As such,

---

[1] See 65 Fed. Reg. 56366, at 56369 (Sep. 18, 2000).

the showing of record is that prior to issuance of the patent, the claims were found not to be allowable. Accordingly, the showing of record is that not all outstanding requirements were satisfied pursuant to 37 CFR 1.703(a)(6). Therefore, no adjustment is due in connection with the payment of the issue fee on September 8, 2005.

Pursuant to 35 U.S.C. 154(b)(1)(A)(iv), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the failure of the Office to issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied. The Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

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 matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Director, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MYRON AMER, P.C.
SUITE 310
114 OLD COUNTRY ROAD
MINEOLA NY 11501

MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,143,770	:	
Issue Date: December 5, 2006	:	
Application No. 10/635,129	:	ON PETITION
Filed: August 7, 2003	:	
Attorney Docket No. P-3976-1	:	

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

The petition is **DISMISSED.**

Any petition for reconsideration of this decision must be accompanied by the petition fee of **$400** as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) above.

With respect to item (3): A review of the Office record shows that the surcharge submitted with the petition filed March 23, 2011, is insufficient in that the fee paid is $810 and the current surcharge is $1640. Since petitioner submitted $560 for the maintenance fee and the current maintenance fee for three and a half year is $490, the additional fee of $70 will be applied to the surcharge which leaves a balance of **$760** due. Absent the proper surcharge payment as set out in 37 CFR 1.20(i)(2), the petition filed March 23, 2011, does not meet the requirements as set forth in 37 CFR 1.378(c). No consideration can be given until the required fee deficiency is remitted.

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.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

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

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

cc: MYRON AMER
350 NATIONAL BOULEVARD
SUITE 2B
LONG BEACH, NY 11561

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUL 27 2011
OFFICE OF PETITIONS

THOMAS M. GALGANO
20 W. PARK AVENUE
SUITE 204
LONG BEACH, NY 11561

In re Patent No. 7,143,770	:	
Issue Date: December 5, 2006	:	
Application No. 10/635,129	:	ON PETITION
Filed: August 7, 2003	:	
Attorney Docket No. P-3976-1	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed July 14, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 5, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/635,129	08/07/2003	Alexander M.L. Keller	P-3976-1

CONFIRMATION NO. 8410

POA ACCEPTANCE LETTER

OC000000048983672

81099
Thomas M. Galgano
20 W. Park Avenue
Suite 204
Long Beach, NY 11561

Date Mailed: 07/27/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/13/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

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

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/635,129	08/07/2003	Alexander M.L. Keller	P-3976-1

CONFIRMATION NO. 8410

POWER OF ATTORNEY NOTICE

MYRON AMER, P.C.
Suite 310
114 Old Country Road
Mineola, NY 11501

OC000000048983633

Date Mailed: 07/27/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/13/2011.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

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

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AT&T LEGAL DEPARTMENT - HFZ
ATTN. PATENT DOCKETING
ONE AT&T WAY
ROOM 2A-207
BEDMINSTOR NJ 07921

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Patent No. 6950499	:
Issue Date: 09/27/2005	:
Application No. 10/635132	: DECISION GRANTING PETITION
Filed: 08/06/2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AMT-9903C2	:

This is a decision on the petition, filed July 2, 2010, which is being treated as a renewed petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to the nonprovisional applications identified on the Application Data Sheet filed with the subject renewed petition, by way of a certificate of correction.

The petition is **granted** to the extent indicated.

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

The instant application was filed on August 6, 2003, and is a continuation of Application No. 10/278,602, filed on October 23, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim 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.

As the 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 application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application.

It is noted that a Certificate of Correction correcting the priority claims was issued on March 30, 2010. As a Certificate of Correction reflecting the desired correction has already been issued, it is not necessary to issue an additional Certificate of Correction, and no further Certificate of Correction will be issued in connection with this decision.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/635,132	08/06/2003	2643	1050	AMT-9903C2	12	3

CONFIRMATION NO. 8415

CORRECTED FILING RECEIPT

83417
AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

OC000000043755746

Date Mailed: 10/12/2010

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)

John Joseph Savaglio, Oak Lawn, IL;
Richard Bruce Fowler, Naperville, IL;

Power of Attorney: The patent practitioners associated with Customer Number 34431

Domestic Priority data as claimed by applicant

This application is a CON of 10/278,602 10/23/2002 PAT 6,650,733
which is a CON of 10/093,749 03/08/2002 PAT 6,501,831
which is a CON of 09/642,430 08/21/2000 PAT 6,415,019

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/635,132**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF PROVIDING 911 SERVICE TO A PRIVATE BRANCH EXCHANGE

Preliminary Class

379

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

Doc Code: PET.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: 60130-1856	Patent Number: 7669699
Filing Date (or 371(b) or (f) Date): 08/06/2003	Issue Date: 03/02/2010
First Named Inventor: Paul Roberts	
Title: BRAKE CALIPER	

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 /Kerrie A. Laba/	Date 8-26-10
Name (Print/Typed) Kerrie A. Laba	Registration Number 42777

***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.

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 09/17/2010

Applicant	: Paul Roberts	: DECISION ON REQUEST FOR
Patent Number	: 7669699	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/635,219	: OF WYETH
Filed	: 08/06/2003	:
		:

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,586	08/06/2003	Allen M. Gilbert	RSW920030087US1 (102)	1393

46320 7590 02/25/2011
CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON, FL 33487

EXAMINER
BIAGINI, CHRISTOPHER D

ART UNIT	PAPER NUMBER
2445	

MAIL DATE	DELIVERY MODE
02/25/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte ALLEN M. GILBERT, DAVID LOUIS KAMINSKY and BALACHANDAR RAJARAMAN

Appeal No. 2009-006032
Application 10/635,586
Technology Center 2400

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 41.3", filed December 21, 2010 ("Petition"). The Petition requests that:

1. "that certain rejections be designated a new grounds of rejection pursuant to 37 C.F.R. § 41.50(b)".

FINDINGS

1) On March 26, 2009 a Docketing Notice, giving the application an Appeal Number of 2009-006032 was mailed to appellants.

2) On June 9, 2010, the Board mailed a decision to Appellants, which affirmed all the rejections on appeal.

3) On August 9, 2010, appellants filed a Request for Rehearing. In their Request, Appellants argued:

1) "the Honorable Board either misapprehended and/or overlooked certain arguments presented by Appellants in the Appeal

Brief of February 22, 2008 and in the Reply Brief of June 17, 2008" (Request for Rehearing p2) and;

b) "If the Honorable Board believes that the present rejection should be maintained, designation as a new ground is necessary because Appellants have not had a fair opportunity to react to the thrust of the 'affirmance' of the rejection, which is based upon a characterization of the prior art that was not relied on by the Examiner". (Request for Rehearing p.8)

4) On December 8, 2010, the Board mailed to Appellants a Decision on Rehearing, which denied Appellants' Request for Rehearing, and also denied Appellants' Request to designate a new grounds of Rejection.

5) Appellants, on December 21, 2010, filed their Petition Under 37 CFR §41.3, requesting that the Chief Administrative Patent Judge designate the new grounds of rejection.

DISCUSSION

Appellants, in their petition, state that:

The issue of whether or not a decision by the Board constitutes a new grounds of rejection involves the question as to whether the Board followed the regulations of the Patent Office, and a review of this issue is a proper exercise of authority. *See In Re Oku*, 25 USPQ2d 1155 (Comm'r Pat. 1992)".

The Commissioner (now Director) in *Oku* did not grant *Oku*'s request for a designation of a new grounds of direction. Instead, the Commissioner granted a request to reopen under 37 CFR §1.198, and denied the rest of the

Petition (*In Re Oku*, 25 USPQ2d 1155, 1157 (Comm'r Pat. 1992)). It is also noted that *In re Weiss* 160 USPQ 423 (Comm'r Pat. 1967), held:

> The Board in its decision of February 8, 1967 held that it had not employed a new ground of rejection and pointed out its reasons for so holding. A careful review of the case fails to disclose any such clear error in the Board's action in that respect as would justify supervisory intervention. The Board's interpretation of the claims would appear to be a matter reviewable on appeal to the Courts rather than upon petition. *In re Weiss* 160 USPQ 423, 424 (Comm'r Pat. 1967).

Thus, since the panel, of this appeal, has pointed out its reason for not holding the rejection of claim 1 as a new ground of rejection, Appellants petition must be denied. Appellants' time to file an appeal to the Courts continues to run from the date of the Decision on Request for Rehearing.

DECISION

In view of the foregoing, the Petition is DENIED.

James T. Moore
Acting Chief Administrative Patent Judge

Carey, Rodriguez, Greenberg, & Paul, LLP
Steven M. Greenberg
950 Peninsula Corporate Circle
Suite 3020
Boca Raton, FL 33487

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON FL 33487

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Gilbert et al.	:	
Application No. 10/635,586	:	
Filed: August 6, 2003	:	DECISION ON PETITION
Attorney Docket No.	:	UNDER 37 C.F.R. § 1.137(B)
RSW920030087US1 (102)	:	
Title: ONLINE AUTONOMIC	:	
OPERATIONS GUIDE	:	

This is a decision on the petition filed June 12, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The above-identified application became abandoned due to the December 8, 2010 decision of the Board for Patent Appeals and Interferences on a request for a rehearing of a prior-made decision. Accordingly, the above-identified application became abandoned on February 9, 2011, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on April 19, 2011.

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

1 See MPEP § 1216.

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed the petition fee and the proper statement of unintentional delay. The concurrently submitted Request for Continued Examination (RCE), the associated fee, and an amendment have been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on June 12, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 See Rule 1.137(d).

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

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JAN 10 2012

PCT LEGAL ADMINISTRATION

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Application of	:	
ZEILER et al.	:	DECISION ON PETITION
Application No.: 10/635,919	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: A8130.0659/P659	:	
For: IMPLANT PLATE, METHOD AND	:	
FACILITY FOR THE MANUFACTURE	:	
THEREOF	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 20, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/DE2002/000025, filed February 08, 2002, set forth in the amendment submitted concurrently with the instant petition.

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 above-noted, prior-filed PCT 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 applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The 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 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 PCT 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 instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 application, accompanies this decision on petition.

Any inquiries concerning this decision 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 3775 for appropriate action on the amendment filed July 20, 2011, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/DE2002/000025, filed February 08, 2002.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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AUG 3 0 2010

OFFICE OF PETITIONS

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Patent No. 7,200,329	:	
Issue Date: April 3, 2007	:	
Application No. 10/635,943	:	DECISION ON PETITION
Filed: August 7, 2003	:	
Attorney Docket No. 5000-1-416	:	

This is a decision on the Request For Certificate Of Correction Under 37 CFR 1.323, filed June 9, 2009, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of the assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

Petitioner requests that the present Petition was submitted to correct the omission of the assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted 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), was previously submitted. However, the $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the petition.

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,200,329.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6857684
Issue Date: February 22,2005
Application No. 10636074
Filed: August 7,2003
Attorney Docket No. 5362-000470

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

This is a decision on the electronic petition, filed October 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,857,684	2005-02-22	10/636,074	2003-08-07	KUS-00602/16

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Douglas L. Wathen/	Date (YYYY-MM-DD)	2010-10-21
Name	Douglas L. Wathen	Registration Number	41369

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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ANGIODYNAMICS, INC.
14 PLAZA DRIVE
LATHAM, NY 12110

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Patent No. **7,241,273** :
Issue Date: July 10, 2007 :
Application No. 10/636,359 : NOTICE UNDER 37 CFR 1.28(c)
Filed: August 6, 2003 :
Attorney Docket No. **FLO-003B CON1** :

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.

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 Mr. Kendal M. Sheets 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, Mr. Sheets desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Sheets, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

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

cc: **KENDAL M. SHEETS**
CPA GLOBAL
2318 MILL ROAD, SUITE 12 FLOOR
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD - WELLS FARGO
P.O. BOX 2903
MINNEAPOLIS MN 55402

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FEB 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Garcia et al.	:	
Application No. 10/636,420	:	DECISION ON PETITION
Filed: August 6, 2003	:	
Attorney Docket No. 15896.0012US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 17, 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, May 12, 2010, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on October 13, 2010. A Notice of Abandonment was mailed December 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 a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114 (previously submitted on October 12, 2010), (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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

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

This matter is being referred to Technology Center AU 3685 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed October 12, 2010.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Albert W. Vredeveld
c/o Merchant Gould P.C.
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215

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DEC 21 2010

OFFICE OF PETITIONS

K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

In re Application of :
Walker, et al. :
Application No. 10/636,520 : DECISION ON APPLICATION
Filed: August 7, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **3718582-00336** :

This is in response to the "Request for Reconsideration of Patent Term Adjustment" filed December 1, 2010. Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from nine hundred and nineteen (919) days to seven hundred and thirty-five (735) days.

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

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred and thirty-five (735) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 30, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 919 days. On December 1, 2010, applicant submitted the instant petition. Applicant maintains that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and that the patent term adjustment at the time of the mailing of the Notice of Allowance should be 735 days.

Applicants' argument has been considered and is well taken. On September 17, 2010, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) after filing a reply to the final Office action on March 17,

2010. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed September 17, 2010, reveals that applicant did not include a statement under 37 CFR 1.704(d).[1] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 184 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, March 18, 2010, and ending on the date that the IDS was filed, September 17, 2010. Accordingly, a period of reduction of 184 days is being entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is 735 days.

The $200.00 fee set forth under 37 CFR 1.18(e) is acknowledged.

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.

---

[1] Pursuant to 37 CFR § 1.704(d):

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

Telephone inquiries specific to this decision 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*: 10636520 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10636520

Application Filing Date	08/07/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1175
A Delays	1175	PTO Manual Adjustment	-184
B Delays	0	Applicant Delay (APPL)	256
C Delays	0	Total PTA (days)	735

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
121	12/16/2010		P028	Adjustment of PTA Calculation by PTO		184	0
110	09/30/2010	07/17/2010	MN/=.	Mail Notice of Allowance	75		76
109	09/28/2010		N/=.	Notice of Allowance Data Verification Completed			0
108	09/28/2010		IREV	Issue Revision Completed			0
107	09/28/2010		DVER	Document Verification			0
106	09/28/2010		EX.A	Examiner's Amendment Communication			0
105	09/28/2010		CNTA	Notice of Allowability			0
104	09/25/2010		FWDX	Date Forwarded to Examiner			0
103	09/23/2010		SA..	Supplemental Response			0
89	09/20/2010		P574	Paralegal TD Accepted			0
88	09/20/2010		P574	Paralegal TD Accepted			0
87	09/20/2010		P574	Paralegal TD Accepted			0
86	09/20/2010		P574	Paralegal TD Accepted			0
99	09/17/2010		TDP	terminal disclaimer fee paid			0
98	09/17/2010		DIST	Terminal Disclaimer Filed			0
97	09/17/2010		TDP	terminal disclaimer fee paid			0
96	09/17/2010		DIST	Terminal Disclaimer Filed			0
95	09/17/2010		TDP	terminal disclaimer fee paid			0
94	09/17/2010		DIST	Terminal Disclaimer Filed			0
93	09/17/2010		TDP	terminal disclaimer fee paid			0
92	09/17/2010		DIST	Terminal Disclaimer Filed			0
90	09/17/2010		IDSC	Information Disclosure Statement considered			0
85	09/17/2010		DIST	Terminal Disclaimer Filed			0
84	09/17/2010		DIST	Terminal Disclaimer Filed			0
83	09/17/2010		DIST	Terminal Disclaimer Filed			0
81	09/17/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
82	07/17/2010		DIST	Terminal Disclaimer Filed			0
78	03/22/2010		FWDX	Date Forwarded to Examiner			0
75	03/22/2010		ABN9	Disposal for a RCE / CPA / R129			0
91	03/17/2010		IDSC	Information Disclosure Statement considered			0
79	03/17/2010		EIDS.	Electronic Information Disclosure Statement			0
77	03/17/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
76	03/17/2010	02/18/2010	RCEX	Request for Continued Examination (RCE)		27	68
74	03/17/2010		XT/G	Request for Extension of Time - Granted			0
73	03/17/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
72	03/17/2010		BRCE	Workflow - Request for RCE - Begin			0
71	12/03/2009		EML_NTR	Email Notification			0
70	12/03/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
69	11/30/2009		C.AD	Correspondence Address Change			0
68	11/18/2009	11/15/2009	MCTFR	Mail Final Rejection (PTOL - 326)	3		65
67	11/17/2009		CTFR	Final Rejection			0
66	09/15/2009		FWDX	Date Forwarded to Examiner			0
65	07/15/2009	04/15/2009	A...	Response after Non-Final Action		91	63
64	07/15/2009		XT/G	Request for Extension of Time - Granted			0
63	01/15/2009		MCTNF	Mail Non-Final Rejection			0
62	01/15/2009		CTNF	Non-Final Rejection			0
60	11/05/2008		FWDX	Date Forwarded to Examiner			0
58	11/05/2008		FWDX	Date Forwarded to Examiner			0
56	11/05/2008		ABN9	Disposal for a RCE / CPA / R129			0
59	10/29/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
57	10/29/2008	10/09/2008	RCEX	Request for Continued Examination (RCE)		20	53
55	10/29/2008		XT/G	Request for Extension of Time - Granted			0
54	10/29/2008		BRCE	Workflow - Request for RCE - Begin			0
53	07/09/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
52	07/03/2008		CTFR	Final Rejection			0

50	05/02/2008		FWDX	Date Forwarded to Examiner			0
49	04/03/2008	01/09/2008	A...	Response after Non-Final Action		85	42
48	04/03/2008		XT/G	Request for Extension of Time - Granted			0
51	01/09/2008		IDSC	Information Disclosure Statement considered			0
47	01/09/2008		RCAP	Reference capture on IDS			0
46	01/09/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
45	10/17/2007		W525	Withdraw Flagged for 5/25			0
44	10/16/2007		F525	Flagged for 5/25			0
42	10/09/2007	10/07/2004	MCTNF	Mail Non-Final Rejection	1097		-1
41	10/01/2007		CTNF	Non-Final Rejection			0
43	09/25/2007		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
31	02/23/2007		DOCK	Case Docketed to Examiner in GAU			0
30	02/21/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
29	02/21/2007		DOCK	Case Docketed to Examiner in GAU			0
27	08/02/2005		A.PE	Preliminary Amendment			0
26	05/31/2005		BIG.	Statement Filed Indicating a Loss of Entitlement to Small Entity Status			0
25	05/13/2005		C602	Oath or Declaration Filed (Including Supplemental)			0
39	02/10/2005		IDSC	Information Disclosure Statement considered			0
23.7	02/10/2005		EIDS.	Electronic Information Disclosure Statement			0
23	02/10/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
40	02/08/2005		IDSC	Information Disclosure Statement considered			0
24.7	02/08/2005		EIDS.	Electronic Information Disclosure Statement			0
24	02/08/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
28	12/13/2004		LET.	Miscellaneous Incoming Letter			0
38	09/30/2004		IDSC	Information Disclosure Statement considered			0
21	09/30/2004		RCAP	Reference capture on IDS			0
20.7	09/30/2004		M844	Information Disclosure Statement (IDS) Filed			0
20	09/30/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
17	06/14/2004		MPTGR	Mail-Petition Decision - Granted			0
16	04/09/2004		WROIPE	Application Return from OIPE			0
14	03/19/2004		ROIPE	Application Return TO OIPE			0
13	03/19/2004		WROIPE	Application Return from OIPE			0
12	03/19/2004		COMP	Application Is Now Complete			0
11	03/19/2004		ROIPE	Application Return TO OIPE			0
9	03/18/2004		COMP	Application Is Now Complete			0
10	03/17/2004		OIPE	Application Dispatched from OIPE			0
15	03/09/2004		PET.	Petition Entered			0
8	03/09/2004	02/05/2004	ADDFLFEE	Additional Application Filing Fees		33	6
7	03/09/2004		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
6	11/05/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	10/25/2003		CLSS	CASE CLASSIFIED BY OIPE			0
3	10/25/2003		L194	Cleared by OIPE CSR			0
2	10/10/2003		SCAN	IFW Scan & PACR Auto Security Review			0
37	08/07/2003		IDSC	Information Disclosure Statement considered			0
19	08/07/2003		RCAP	Reference capture on IDS			0
18.7	08/07/2003		M844	Information Disclosure Statement (IDS) Filed			0
18	08/07/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
1	08/07/2003		IEXX	Initial Exam Team nn			0

Export to: Excel

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,910,626	2005-06-28	10/636,628	2003-08-08	P06505US07

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Douglas E. Jackson/	Date (YYYY-MM-DD)	2011-05-20
Name	Douglas E. Jackson	Registration Number	28518

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6910626
Issue Date: June 28,2005
Application No. 10636628
Filed: August 8,2003
Attorney Docket No. P06505US07/RFH

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

This is a decision on the electronic petition, filed May 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 20,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINA HOUTAN
300 CENTRAL AVENUE, SUITE D
EGG HARBOR TOWNSHIP, NJ 08234

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
HOUTAN	:	
Application No. 10/636,632	:	ON PETITION
Filed: August 8, 2003	:	
Attorney Docket No.	:	

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 **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action, mailed July 13, 2006, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 14, 2006.

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

With respect to item (3): The statement of unintentional delay cannot be accepted as being in compliance with 37 CFR 1.137(b) because of a statement previously made in the correspondence dated February 7, 2007, which raises a question as to whether the entire delay was unintentional.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF KHALILIAN SIRA, LLC
9100 PERSIMMON TREE ROAD
POTOMAC MD 20854

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of	:	
HOUTAN	:	
Application No. 10/636,632	:	DECISION ON PETITION
Filed: August 8, 2003	:	TO WITHDRAW
Attorney Docket No. 44663-187509	:	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 8, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Houri Khalilian and the attorneys associated with Customer No. 47234, has been revoked by the inventor of the patent application on February 22, 2011. 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 address indicated below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MINA HOUTAN, PH.D
300 CENTRAL AVENUE, SUITE D
EGG HARBOR TOWNSHIP, NJ 08234

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
10/636,632	08/08/2003	Mina Houtan	44663-187509

CONFIRMATION NO. 1434

POWER OF ATTORNEY NOTICE

47234
LAW OFFICES OF KHALILIAN SIRA, LLC
9100 PERSIMMON TREE ROAD
POTOMAC, MD 20854

OC000000047252067

Date Mailed: 04/20/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2011.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

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

8-10-2010

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,752,090 B2
Issue Date : July 6, 2010
Ser. No. : 10/636,932
Inventor(s) : David Painer

Re: Request for certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error in the inventor's name, addresses, since inventor's name (s) are printed solely in accordance with the typewritten name (s), and since the error was the result of applicant's failure to comply with the requirement that the complete and correct name addresses (s) be indicated on the Declaration or Oath, no correction is in order here under the provisions of Rules 1.322, unless a petitions is granted.

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

A certificate of correction will issue to correct the remaining errors noted in your request.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (571) 272-3218
Attn: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Eva James
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703756-1583 or 1580

Joseph M. Bennett-Paris
Duane Morris LLP
1180 W. Peachtree Street, NW Suite 700
Atlanta GA 30309-3348

ej

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	10637260
Filing Date	09-Aug-2003
First Named Inventor	Grover Mundell
Art Unit	3627
Examiner Name	PAUL DANNEMAN
Attorney Docket Number	52438.830010.US0
Title	Method and apparatus for permitting access to, tracking, and reporting real time transcriptions

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 26582

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	Jaclyn Sprtel Thomson Reuters
Address	610 Opperman Drive
City	Eagan
State	MN
Postal Code	55123
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Brian Kinnear/
Name	Brian Kinnear
Registration Number	43717

UNITED STATES 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 : July 27,2011

In re Application of :

Grover Mundell

Application No : 10637260

Filed : 09-Aug-2003

Attorney Docket No : 52438.830010.US0

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 July 27,2011

The request is **APPROVED.**

The request was signed by Brian Kinnear (registration no. 43717) on behalf of all attorneys/agents associated with Customer Number 26582 . All attorneys/agents associated with Cusotmer Number 26582 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	Jaclyn Sprtel
Name2	Thomson Reuters
Address 1	610 Opperman Drive
Address 2	
City	Eagan
State	MN
Postal Code	55123
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/637,482	08/08/2003	Steven E. Brenner	B04-005-1	3667

23379 7590 03/08/2011
RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego, CA 92130

EXAMINER
CLOW, LORI A

ART UNIT	PAPER NUMBER
1631	

NOTIFICATION DATE	DELIVERY MODE
03/08/2011	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):

RICHARD@SCI-TECH.COM

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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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MAR 0 8 2011

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

In re Application of:	:
Brenner et al.	:
Serial No.: 10/637,482	: PETITION DECISION
Filed: August 8, 2003	:
Attorney Docket No.: **B04-005-1**	:

This is in response to the petition filed January 28, 2011 under 37 CFR § 1.181, requesting that a new examiner be assigned to the case.

BACKGROUND

Most recently the examiner mailed a non-final Office action on October 28, 2010.

On January 28, 2011, applicants' filed arguments traversing the examiner's rejection instituted in the non-final Office action of October 28, 2010.

Concurrently with the response of January 28, 2011, applicants filed this petition on January 28, 2011 under 37 CFR § 1.181, requesting that that a new examiner be assigned to the case.

DISCUSSION

Applicants argue that "One fact alone should be sufficient to grant this petition: the present Examiner has subject this application to no fewer than eight substantive office actions. I have never filed any request for continued prosecution, and there have not been substantive changes in the law that could possibly justify this protracted examination - the issue has consistently been a simple 102 rejection based on the inventor's prior work."

Applicants further note that "This application has now been pending for seven and a half years."

The petition and the file history have been carefully considered.

Applicants' concerns are well-taken and found persuasive.

DECISION

The petition is **GRANTED**. The instant application will be assigned a new examiner selected by Marjorie Moran, the Supervisor of Art Unit 1631.

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.

Jacqueline Stone
Director, Technology Center 1600

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OCT 22 2010

OFFICE OF PETITIONS

Guice Patents, PLLC
12647 Galveston Court #302
Manassas, VA 20112

In re Patent No. 7,364,436 :
Issue Date: April 29, 2008 :
Application No. 10/637,522 : ON PETITION
Filed: August 11, 2003 :
Patentee(s): Sheng Shun Yen :

This is a decision on the request under 37 CFR 3.81[1], filed September 8, 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 a $130 processing fee is required, this fee will be charged to petitioner's deposit account, as authorized.

Since the present request complies 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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August 23, 2010

John R. Guice, Jr.
Guice Patents PLLC
12647 Galveston Court, #302
Manassas, VA 20112

Patent No.	: 7,364,436 B2
Ser. No.	: 10/637,522
Inventor(s)	: Sheng Shun Yen
Issued	: April 29, 2008
Docket No.	: 4602-0192
Title	: **LOW HEIGHT USB INTERFACE CONNECTING DEVICE AND A MEMORY STORAGE APPARATUS THEREOF**

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:

Copy

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

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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August 23, 2010

John R. Guice, Jr.
Guice Patent PLLC
12647 Galveston Court, #302
Manassas, VA 20112

Patent No.	: 7,364,436 B2
Ser. No.	: 10/637,552
Inventor(s)	: Sheng Shun Yen
Issued	: April 29, 2008
Docket No.	: 4602-0192
Title	: **LOW HEIGHT USB INTERFACE CONNECTING DEVICE AND A MEMORY STORAGE APPARATUS THEREOF**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

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Paper No.

William Delaplaine Green
508 East 5th Street
Bethlehem PA 18015

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
William Delaplaine Green	:	
Application No. 10/637,841	:	DECISION ON PETITION
Filed: August 8, 2003	:	PURSUANT TO
Title: TWO-CYCLE INTERNAL	:	37 C.F.R. § 1.137(A)
COMBUSTION ENGINE	:	

This is a decision on the petition filed December 21, 2010, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **DISMISSED.**

BACKGROUND

An Office communication (first Office communication) was mailed on December 17, 2009, which required, *inter alia*, the submission of a marked up copy of a substitute specification. The mailing set a non-extendable one month period for response, and expressly withdrew a previously-made indication from the Office that the application contains allowable claims.[1] A response was received on January 19, 2010, and a marked up copy of the substitute specification was not submitted concurrently therewith. Consequently, an Office communication (second Office communication) was mailed on February 25, 2010, which reiterated the requirement for the submission of a marked up copy of a substitute specification. The second Office communication set an extendable one month period for response. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-

1 See first Office communication, page 2. See also Office Action Summary of December 21, 2006, section 5.

identified application became abandoned on March 26, 2010. A notice of abandonment was mailed on October 28, 2010.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

The Applicable Standard

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 statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[2]

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2 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's 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

> [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.[3]
>
> 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.'[4]
>
> 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.[5]

The burden of showing the cause of the delay is on the person seeking to revive the application.[6]

"[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]

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.

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issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 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).

4 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)).

5 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)).

6 Id.

7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 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).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[8]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[9]

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 pursuant to 37 C.F.R. § 1.137(a), Petitioner has included the petition fee and a statement of facts.

The second requirement of Rule 1.137(a) has been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[10] The first and third requirements have not been satisfied, as will now be pointed out.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply

8 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
9 Haines v. Quigg, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
10 See Rule 1.137(d).

to the second Office communication. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[11] In order for the application to be revived, Petitioner must submit a reply that satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, **a marked up copy of the substitute specification**). The petition was not accompanied by this reply.

Regarding the third requirement, with this petition pursuant to 37 C.F.R. § 1.137(a), **Petitioner has not explained why he failed to respond to the second Office communication.** It is noted that Petitioner has expressed a suspicion that postal mail is stolen from his residential mailbox on a regular basis. In case he is not in possession of the second Office communication, a courtesy copy of the same has been included with this decision.

Pursuant to 37 C.F.R. § 1.134, the notice clearly set forth the period of time set for reply:

> "…applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS (emphasis included) from the mailing date of this letter, whichever is longer, to submit a complete reply."
>
> Notice, page 1.

Petitioner failed to reply within this period of time, and as such, this application became abandoned by operation of law, pursuant to 37 C.F.R. § 1.135.

A reasonable and prudent person, acting in relation to his most important business, would have read the notice, noted the one-month period for response, and submitted a reply within either the original or the extendable period for response. It follows that the record does not support a finding that the entire period of delay was unavoidable.

The present set of facts might result in a finding of unintentional delay, but it does not rise to the level of 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

---

11 See MPEP § 711.03(c).

§ 704.

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. § 1.137(b). Unless Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard.

If Petitioner is in a position to assert that he failed to receive the second Office communication, he should assert as much on renewed petition, and follow the procedure set forth in MPEP § 711.03(c)(I)(A).

Petitioner may download information about these petitions here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[12] hand-delivery,[13] or facsimile.[14] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[15]

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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this 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

---

12 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
13 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
14 (571) 273-8300: please note this is a central facsimile number.
15 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Courtesy copy of the Office communication of February 25, 2010.

cc: William Delaplaine Green
8906 Camden Street
Alexandria, VA 22308-2715

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.
10/637,841	08/08/2003	William Delaplaine Green		3345

7590 02/25/2010

William Delaplaine Green
508 East 5th Street
Bethlehem, PA 18015

Contro Copy

EXAMINER
KAMEN, NOAH P

ART UNIT	PAPER NUMBER
3741	

MAIL DATE	DELIVERY MODE
02/25/2010	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 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.
10637841	8/8/2003	GREEN, WILLIAM DELAPLAINE	

William Delaplaine Green
508 East 5th Street
Bethlehem, PA 18015

Courtesy Copy

EXAMINER
Noah Kamen

ART UNIT	PAPER
3741	20100223

DATE MAILED:

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

Commissioner for Patents

The timely submission under 37 CFR 1.129(a) filed on 1/19/10 is not fully responsive to the prior Office action because there is no marked up copy of the substitute specification dated 3/19/05. Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

The letter dated 1/19/10 indicates that the original application filed 8/8/03 should be referenced. However, this remark fails to address the requirement for a marked up copy of the substitute specification.

The examiner regrets the delay in the request for a marked up copy. The present examiner has just now taken over this case from an examiner no longer with the PTO. Because of the huge number of claims and the complexity of the case with the possibility of new matter the examiner must have the marked up copy before preceding any further.

The applicant is correct that numbering the elements in each claim is not a requirement. As mentioned in the previous action, this would be a "courtesy copy" to assist the examiner in assuring that there no new matter and in interpreting the claims so as to make an accurate determination as to the desired meets and bounds of the claims, especially since the applicant is a pro se.

/Noah Kamen/
Primary Examiner
Art Unit: 3741

UNITED STATES 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.

William Delaplaine Green
508 East 5th Street
Bethlehem PA 18015

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
William Delaplaine Green	:	
Application No. 10/637,841	:	DECISION ON PETITION
Filed: August 8, 2003	:	PURSUANT TO
Title: TWO-CYCLE INTERNAL	:	37 C.F.R. § 1.137(B)
COMBUSTION ENGINE	:	

This is a decision on the petition filed April 13, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

This petition is **DISMISSED.**

An Office communication (first Office communication) was mailed on December 17, 2009, which required, *inter alia*, the submission of a marked up copy of a substitute specification. The mailing set a non-extendable one month period for response, and expressly withdrew a previously-made indication from the Office that the application contains allowable claims.[1] A response was received on January 19, 2010, and a marked up copy of the substitute specification was not submitted concurrently therewith. Consequently, an Office communication (second Office communication) was mailed on February 25, 2010, which reiterated the requirement for the submission of a marked up copy of a substitute specification. The second Office communication set an extendable one month period for response. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-

1 See first Office communication, page 2. See also Office Action Summary of December 21, 2006, section 5.

identified application became abandoned on March 26, 2010. A notice of abandonment was mailed on October 28, 2010.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on December 21, 2010, and was dismissed via the mailing of a decision on February 14, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the petition fee and the proper statement of unintentional delay. It follows that the second and third requirements of Rule 1.137(b) have been satisfied. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The present petition is not grantable because the first requirement of Rule 1.137(b) has not been satisfied. Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[3] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (*i.e.*, **a marked up copy of the substitute specification**). The petition was not accompanied by this reply.

If reconsideration of this petition is desired, Petitioner may file a reply including a cover letter entitled "Renewed Petition

2 See Rule 1.137(d).
3 See M.P.E.P. § 711.03(c).

pursuant to 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

If reconsideration of this decision is desired, any response to this decision 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(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8] All other inquiries concerning examination procedures should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this 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

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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300: please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
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 Petitioner's further action(s).

Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: William Delaplaine Green
8906 Camden Street
Alexandria, VA 22308-2715

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

AUG 15 2011

OFFICE OF PETITIONS

William Delaplaine Green
508 East 5th Street
Bethlehem PA 18015

In re Application of	:	
William Delaplaine Green	:	
Application No. 10/637,841	:	DECISION ON RENEWED PETITION
Filed: August 8, 2003	:	PURSUANT TO
Title: TWO-CYCLE INTERNAL	:	37 C.F.R. § 1.137(B)
COMBUSTION ENGINE	:	

This is a decision on the renewed petition filed August 3, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

This renewed petition is **GRANTED.**

An Office communication (first Office communication) was mailed on December 17, 2009, which required, *inter alia*, the submission of a marked up copy of a substitute specification. The mailing set a non-extendable one month period for response, and expressly withdrew a previously-made indication from the Office that the application contains allowable claims.[1] A response was received on January 19, 2010, and a marked up copy of the substitute specification was not submitted concurrently therewith. Consequently, an Office communication (second Office communication) was mailed on February 25, 2010, which reiterated the requirement for the submission of a marked up copy of a substitute specification. The second Office communication set an extendable one-month period for response. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-

1 See first Office communication, page 2. See also Office Action Summary of December 21, 2006, section 5.

identified application became abandoned on March 26, 2010. A notice of abandonment was mailed on October 28, 2010.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on December 21, 2010, and was dismissed via the mailing of a decision on February 14, 2011.

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.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on April 13, 2011, along with the petition fee and the proper statement of unintentional delay. The original petition pursuant to 37 C.F.R. § 1.137(b) was dismissed via the mailing of a decision on June 3, 2011, which indicated that the second and third requirements of Rule 1.137(b) have been satisfied, and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

With this renewed petition, Petitioner has included a marked up copy of the specification.

It follows that the first requirement of Rule 1.137(b) has been satisfied.

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

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2 See Rule 1.137(d).

the Examiner of this decision, so that the application can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
APR 06 2011
OFFICE OF PETITIONS

Joanna Szydlo-Moore
4709 113th PLACE SE
Everett WA 98208

In re Patent No. 7,110,095	:	
Issue Date: September 19, 2006	:	
Application No. 10/638,650	:	ON PETITION
Filed: August 11, 2003	:	
Attorney Docket No. P06653US0	:	

This is a decision on the petition under 37 CFR 1.378(c), January 30, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 20, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7262167
Issue Date: August 28,2007
Application No. 10639015
Filed: August 11,2003
Attorney Docket No. 30792US1

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

This is a decision on the electronic petition, filed September 7,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 7,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7,262,167	2007-08-28	10/639,015	2003-08-11	30792US1

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jeffrey j sopko/	Date (YYYY-MM-DD)	2011-09-07
Name	Jeffrey J. Sopko	Registration Number	27676

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FIELDS IP, PS
P.O. BOX 327
BINGEN WA 98605

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Patent No. 6,998,298	:	
Issued: February 14, 2006	:	
Application No. 10/639,058	:	DECISION ON PETITION
Filed: August 11, 2003	:	
Attorney Docket No. 2000.004.00/US	:	

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

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

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

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

The change of correspondence address submitted is hereby not accepted. There is, no indication that the person signing the request was ever given a power of attorney or authorization of agent regarding the above-identified patent. If the person signing the request desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Accordingly, while a courtesy copy of this decision is being mailed to the address given on the request, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: WESLEY ERIC WEBOSTAD
THE WEBOSTAD FIRM, A PROFESSIONAL CORPORATION
150 NORTH WIGET LANE
SUITE 200
WALNUT CREEK, CA 94598

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GARY DEAN RAGNER
711 SW 75TH ST.
#103
GAINSVILLE FL 32607

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,150,068	:	
Issued: December 19, 2006	:	
Application No. 10/639,659	:	ON PETITION
Filed: August 12, 2003	:	
Attorney Docket No. 780-0012US	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 17, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 20, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent in the above-identified patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of

this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Additionally, petitioner has submitted $2,750.00 towards the $980.00 large-entity 3.5 year maintenance fee and the $1,640.00 surcharge fee, thus creating an overage of $130.00. This amount will be refunded to petitioner's credit card in due course.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Christopher R. Carroll
The Small Patent Law Group LLP
225 S. Meramec
Suite 725
Saint Louis, MO 63105

UNITED STATES PATENT AND TRADEMARK OFFICE

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SYLVIO CARFO
5622 N. VICKER AVENUE
CHICAGO, IL 60646

MAILED
AUG 10 2010
OFFICE OF PETITIONS

In re Patent No. 7,041,017 :
Issue Date: May 9, 2006 :
Application No. 10/640,062 :
Filed: August 14, 2003 :
Attorney Docket No. JHM1337 :

ON PETITION

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

The petition is **DISMISSED**.

The patent issued May 9, 2006. The first maintenance fee could have been paid from May 9, 2009 through November 10, 2009, or with a $65 surcharge during the period from November 10, 2009 through May 9, 2010. Accordingly, the patent expired at midnight May 9, 2010, for failure to timely submit, the (first) 3 ½ year maintenance fee.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) above.

A review of the application reveals that the petitioner supplied part of the surcharge for filing a petition under the provisions of 37 CFR 1.378(c) received June 30, 2010. The surcharge required 37 CFR 1.20(i)(1) of $1620 and petitioner only paid $65. An additional $1575 is required to meet the fee requirements of the petition. If the petitioner intends to submit a renewed petition the fee set forth under 37 CFR 1.16(f) the required of $1575 must be submitted along with the renewed petition.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. **No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b)**. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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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SYLVIO CARFO
5622 N. VICKER AVENUE
CHICAGO, IL 60646

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Patent No. 7,041,017	:	
Issue Date: May 9, 2006	:	
Application No. 10/640,062	:	LETTER
Filed: August 14, 2003	:	
Attorney Docket No. JHN1337	:	

This is a letter regarding the petition under 37 CFR 1.378(c), filed September 2, 2010 and resubmitted September 23, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition filed on September 2, 2010 was not accompanied by the petition fee of **$400** set forth in 37 CFR 1.17(f) as required by 37 CFR 1.378(e). Additionally, petitioner has not submitted the $1640 surcharge set forth in 37 CFR 1.20(i)(2) as required by 37 CFR 1.378(c) and 35 U.S.C. 41(c)(1).

The fees are a requirement of the statute and the Director has no authority to waive a requirement of the statutes. See Boyden v. Commissioner, 441 F.2d 1041, 168 USPQ 680 (D.C. Cir. 1971).

Petitioner must submit the required petition fee and the required surcharge within **ONE (1) MONTH** from the mail date of this letter. No extension of this one month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704. A failure to file a reply to the instant letter will be interpreted as a desire to no longer pursue reinstatement of the patent and the office will give no further consideration to the matter.

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

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

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

Alexandria, VA 22314

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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SYLVIO CARFO
5622 N. VICKER AVENUE
CHICAGO, IL 60646

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,041,017
Issue Date: May 9, 2006
Application No. 10/640,062
Filed: August 14, 2003
Attorney Docket No. JHN1337
Patentee(s): Sylvio Carfo

DECISION ON PETITION
UNDER 37 CFR 1.378(b)

This is a decision on the renewed petition under 37 CFR 1.378(b), filed March 23, 2011, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued May 9, 2006. The first maintenance fee could have been paid from May 9, 2009, through November 10, 2009, or with a surcharge during the period from November 10, 2009 through May 9, 2010. Accordingly, the patent expired at midnight May 9, 2010, for failure to timely submit the first maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item (1) and (3) above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Petitioner states that the delay in payment of the first maintenance fee was unavoidable due to financial difficulties at the time in question, and at the same time, petitioner's physical infirmities.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, petitioner must show that (he) was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due to (his) financial and medical conditions until the petition was filed.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issues of petitioner's health and financial problems are immaterial in the absence of a showing that these, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the entire period of the delay was such as to excuse the delay. See Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). The showing of record does not adequately establish that petitioner's entire delay in paying the first maintenance fee from May 9,

2010, until the petition was filed on or about March 23, 2011, was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).

A complete showing, with supporting documentation, is required of the financial condition of petitioner or the party responsible for payment of the maintenance fees. Such showing should include all income, expenses, assets, credit, and obligations, which made the delay in payment of the maintenance fee from May 9, 2010, until the filing of the petition on or about March 23, 2011, "unavoidable." A monthly breakdown is preferred. In essence, petitioner must show that she was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was financially unable to make the payment until the petition was filed. The showing should include documentary proof of the maintenance fee tracking system, the entry of this patent in that system and an explanation of how the system worked.

As to the health problems, petitioner should note that under the circumstances of this case, he will have to provide documents from licensed health care providers, demonstrating the nature and extent of petitioner's incapacitation, in such a manner that petitioner was, from the date of expiry until the filing of the petition on March 23, 2011, "unavoidably" prevented from taking any earlier action with respect to this patent. Additionally, petitioner must state how he manages to conduct his daily personal and business affairs, including scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question. Petitioner must demonstrate that his financial and health problems were such as to cause the payment of the maintenance fee to have been unavoidably delayed.

With respect to item 3 above, the petitioner filed a petition to accept the unintentionally delayed payment of the maintenance fee on June 30, 2010. On August 10, 2010 a decision was mailed informing petitioner that there was a fee deficiency of the required surcharge for filing the petition to accept the unintentionally delayed maintenance fee. The surcharge required by 37 CFR 1.20(i)(1) is $1620and petitioner only paid $65. An additional $1575 was needed in order to meet the fee requirements of the petition.

Petitioner should also note that since the maintenance fee is proffered within 24 months of the date of expiration date of the patent, he has an alternate remedy under the unintentional provisions of 37 CFR 1.378(c) which does not require a showing of the delay in timely paying the maintenance fee in order to reinstate the patent. The $700 already submitted would be applied to the $1,640 fee owed under 37 CFR 1.378(c), leaving a balance due of $940.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

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

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

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

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

Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7192351	2007-03-20	10640214	2003-08-12	CRP-P-102

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	/Brian D Ogonowsky/	Date (YYYY-MM-DD)	2011-04-14
Name	Brian D. Ogonowsky	Registration Number	31988

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. 7192351
Issue Date: March 20,2007
Application No. 10640214
Filed: August 12,2003
Attorney Docket No. CRP-P-102

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

This is a decision on the electronic petition, filed April 14,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 14,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6871648
Issue Date: March 29,2005
Application No. 10640461
Filed: August 12,2003
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 19,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6871648	2005-03-29	10/640,461	2003-08-12	

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Philip A Steiner/	Date (YYYY-MM-DD)	2010-11-19
Name	Philip A Steiner	Registration Number	47967

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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KOPPEL PATRICK HEYBL & PHILPOTT
2815 TOWNSGATE ROAD
SUITE 215
WESTLAKE VILLAGE CA 91361-5827

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael S. Berlin	:	
Application No. 10/640,464	:	DECISION ON PETITION
Filed: August 12, 2003	:	TO WITHDRAW
Attorney Docket No. 299-26-008DV	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 14, 2011.

The request is **APPROVED**.

The request was signed by Michael J. Ram on behalf of the practitioners of record associated with Customer Number 23935.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Michael S. Berlin at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael S. Berlin
8733 Beverly Boulevard, Suite 301
Los Angeles, CA 90048

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
10/640,464	08/12/2003	Michael S. Berlin	299-26-008DV

CONFIRMATION NO. 8843

POWER OF ATTORNEY NOTICE

23935
KOPPEL, PATRICK, HEYBL & PHILPOTT
2815 Townsgate Road
SUITE 215
Westlake Village, CA 91361-5827

OC000000048911115

Date Mailed: 07/25/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/14/2011.

- 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.

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/640,464	08/12/2003	Michael S. Berlin	299-26-008DV

CONFIRMATION NO. 8843

POA ACCEPTANCE LETTER

Michael S. Berlin
8733 Beverly Boulevard
Suite 301
Los Angeles, CA 90048

OC000000048911125

Date Mailed: 07/25/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/14/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

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

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)
7,208,587	2007-04-24	10/640,618	2003-08-13	00-1085-G

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gregory Pletta/	Date (YYYY-MM-DD)	2011-06-17
Name	Gregory Pletta	Registration Number	47864

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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. 7208587
Issue Date: April 24,2007
Application No. 10640618
Filed: August 13,2003
Attorney Docket No. 00-1085-G

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

This is a decision on the electronic petition, filed June 17,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
SuPing Lyu et al. :
Application No. 10/640,702 :
Filed: August 13, 2003 :
Attorney Docket No. P-11017.00 :

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 December 6, 2010.

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 the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

It should also be noted that no certifications were made for items (2) and (3), nor was a reason for withdrawal provided on the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Randall V. Sparer et al.	:	
Application No. 10/640,713	:	DECISION ON PETITION
Filed: August 13, 2003	:	TO WITHDRAW
Attorney Docket No. P-10858.00	:	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 December 6, 2010.

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 the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

It should also be noted that no certifications were made for items (2) and (3), nor was a reason for withdrawal provided on the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS, MN 55458-1336

MAILED
JAN 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Randall V. Sparer, et. al.	:	
Application No. 10/640,714	:	DECISION ON PETITION
Filed: August 13, 2003	:	TO WITHDRAW FROM
Attorney Docket No. P-10604.00	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed December 6, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number[1]. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

[1] It is noted that the Office entered the attorneys of record by Customer Number. However, a review of the record shows that the attorneys were individually appointed in the Combined Declaration and Power of Attorney filed on August 13, 2003.

Additionally, the request cannot be approved because practitioner did not make all the required certifications. Practitioner has not made certifications (2) and (3) on the request, which states, "I/We have delivered to the client or duly authorized representative of the client all papers and property (including funds) to which the client is entitled and I/We have notified the client of any responses that may be due and the time frame within which the client must respond".

Petitioner should note USPTO Form Number PTO/SB/83 requires practitioner to "check each box below that is factually correct" and Warns that "If a box is left unchecked, the request will likely not be approved". (*See USPTO Form No. PTO/SB/83*).

Further, the request cannot be approved because the requested change in the correspondence address is improper[2].

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*[3], or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named signing inventor.

In view of the above, all future communications from the Office will continue to be directed to the above-listed address unless otherwise notified by the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

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[2] 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 (*See* USPTO Form PTO/SB/82).

[3] 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55458-1336

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Randall V. Sparer et al.	:	
Application No. 10/640,823	:	DECISION ON PETITION
Filed: August 13, 2003	:	TO WITHDRAW
Attorney Docket No. P-10819.00	:	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 December 6, 2010.

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 the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

It should also be noted that no certifications were made for items (2) and (3), nor was a reason for withdrawal provided on the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY, SUITE 2110
AUSTIN, TX 78759

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of
Dwip N. BANERJEE, et *al.*
Application No. 10/640,847
Filed: August 15, 2003
Attorney Docket No. **AUS920030457US1**

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 June 15, 2011.

The request is **APPROVED**.

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

The request was signed by Andrew J. Dillon on behalf of all attorneys of record. Andrew J. Dillon has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Randall V. Sparer et al.	:	
Application No. 10/640,853	:	DECISION ON PETITION
Filed: August 13, 2003	:	TO WITHDRAW
Attorney Docket No. P-10998.00	:	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 December 6, 2010.

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 the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

It should also be noted that no certifications were made for items (2) and (3), nor was a reason for withdrawal provided on the 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

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)
6898892	2005-05-31	10640982	2003-08-14	

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Evelyn M. Flavin, Esquire/	Date (YYYY-MM-DD)	2011-05-31
Name	Evelyn M. Flavin, Esquire	Registration Number	46453

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. 6898892
Issue Date: May 31,2005
Application No. 10640982
Filed: August 14,2003
Attorney Docket No. 023-100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 31,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 31,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 7105006
Issue Date: September 12,2006
Application No. 10641101
Filed: August 15,2003
Attorney Docket No. P23092

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 5,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 5,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7105006	2006-09-12	10641101	2003-08-15	P23092

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Stephen M. Roylance/	Date (YYYY-MM-DD)	2010-11-05
Name	Stephen M. Roylance	Registration Number	31296

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

MAILED
FEB 11 2011
OFFICE OF PETITIONS

In re Patent No. 7,160,613	:	
Issued: January 9, 2007	:	
Application No. 10/641,292	:	ON PETITION
Filed: August 15, 2003	:	
Attorney Docket No. 01997-314001 / MIT CASE 9	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 7, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Daniel O'Brien
Massachusetts Institute of Technology
Technology Licensing Office
Five Cambridge Center, Kendall Square
Cambridge, Massachusetts 02142-1493

UNITED STATES PATENT AND TRADEMARK OFFICE

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LUCE, FORWARD, HAMILTON & SCRIPPS LLP
2050 MAIN STREET, SUITE 600
IRVINE CA 92614

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Application of	:	
SPOONAMORE, Mark	:	
Application No. 10/641,666	:	DECISION ON PETITION
Filed: August 14, 2003	:	TO WITHDRAW
Attorney Docket No. **37930-10100**	:	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 15, 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 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/26/09 **Paper No.:** —

TO SPE OF : ART UNIT _____

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/641775 Patent No.: 6844016B2

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: Changes to Figures 1-9 and 11-15 have been approved.

2/2/11

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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/641,780	08/15/2003	Thomas L. Cantor	532212000602	3069

25225 7590 08/18/2010
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER
CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
08/18/2010	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 1 8 2010

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of:
Cantor et al.
Serial No.: 10/641,780
Filed: August 15, 2003
Attorney Docket No.: **532212000602**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed August 4, 2010 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that four documents submitted with the supplemental information disclosure statement filed on March 19, 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.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/641,780	08/15/2003	Thomas L. Cantor	532212000602	3069

25225 7590 10/21/2010
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER
CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
10/21/2010	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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OCT 2 1 2010

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of:
Cantor et al.
Serial No.: 10/641,780
Filed: August 15, 2003
Attorney Docket No.: **532212000602**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed October 15, 2010 to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the 77 documents submitted with the supplemental information disclosure statement filed on July 16, 2007 be expunged from the record. Petitioner also requests that documents 1-10 and 18-45 submitted on November 18, 2008 be expunged from the record. Petitioner further requests that documents 1-3 submitted with the supplemental information disclosure statement filed on April 29, 2009 be expunged from the record. Petitioner further requests that the documents submitted with the supplemental information disclosure statement filed on November 3, 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.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
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03/23/12

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,990,948 B2

APPLICATION NO.: 10/641,821

ISSUE DATE : August 2, 2011

INVENTOR(S) : Goroshevsky et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Page 2, item (56), under “Other Publications”, in Column 1, Line 1, delete "CNOA" and insert - - CN OA - -.

Page 2, item (56), under “Other Publications”, in Column 2, Line 1, delete "JPOA" and insert - - JP OA - -.

Column 19, line 34, in Claim 46, delete "system" and insert - - device - -.

Column 20, line 17, in Claim 52, delete "services at" and insert - - services at at - -.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

_____
_____
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_____

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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.
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 2641

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/641,821 Patent No. 7,990,948

CofC mailroom date 12/2/11

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.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

This is in response to certificate of correction filed 12/02/2011.
All corrections are approved

/Ahmad F. Matar/ — **SPE**

2614 — **Art Unit**

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,990,948 B2

APPLICATION NO.: 10/641,821

ISSUE DATE : August 2, 2011

INVENTOR(S) : Goroshevsky et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

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Page 2, item (56), under “Other Publications”, in Column 2, Line 1, delete "JPOA" and insert - - JP OA - -.

Column 19, line 34, in Claim 46, delete "system" and insert - - device - -.

Column 20, line 17, in Claim 52, delete "services at" and insert - - services at at - -.

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 2641

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/641,821 Patent No. 7,990,948

CofC mailroom date 12/2/11

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.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

This is in response to certificate of correction filed 12/02/2011.
All corrections are approved

/Ahmad F. Matar/ — **SPE**

2614 — **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/641,821	15 August, 2003	GOROSHEVSKY ET AL.	P1458

	EXAMINER	
TUROCY & WATSON, LLP 127 Public Square 57th Floor, Key Tower CLEVELAND, OH 44114	RASHA AL AUBAIDI	
	ART UNIT	PAPER
	2614	20120408

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This communication is in response to SPE response return for certificate of correction filed 03/26/2012

UNITED STATES 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:

In re U.S. Patent No. 7,144,240	:	**DECISION ON PETITION**
Issued: December 5, 2006	:	*37 CFR 1.324*
Application Number: 10/641,903	:	
Filed: August 15, 2003	:	
For: A METHODOLOGY AND APPARATUS	:	
FOR MANUFACTURING DENTAL	:	
APPLIANCES	:	

This is a decision on the petition, filed on June 24, 2010, to correct inventorship in a patent under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for Issuance of a certificate naming only the actual inventor or inventors.

/Joseph S. Del Sole/

Joseph S. Del Sole
Supervisory Patent Examiner
Art Unit 1791
Technology Center 1700
Chemical and Materials Engineering

LONG & CHYBIK
1575 Delucchi Lane
Suite 115-32
Reno, Nevada 89502

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.
10/641,903	08/15/2003	Juanito M. Maravilla	MARAVILLA.001	1531

41898 7590 09/09/2010
LONG & CHYBIK
1575 DELUCCHI LANE, SUITE 32
RENO, NV 89502

EXAMINER
HECKENBERG JR, DONALD H

ART UNIT	PAPER NUMBER
1722	

MAIL DATE	DELIVERY MODE
09/09/2010	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.

UNITED STATES 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:

In re U.S. Patent No. 7,144,240	:	**DECISION ON PETITION**
Issued: December 5, 2006	:	*37 CFR 1.324*
Application Number: 10/641,903	:	
Filed: August 15, 2003	:	
For: A METHODOLOGY AND APPARATUS	:	
FOR MANUFACTURING DENTAL	:	
APPLIANCES	:	

This is a decision on the petition, filed on June 24, 2010, to correct inventorship in a patent under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for Issuance of a certificate naming only the actual inventor or inventors.

/Joseph S. Del Sole/

Joseph S. Del Sole
Supervisory Patent Examiner
Art Unit 1791
Technology Center 1700
Chemical and Materials Engineering

LONG & CHYBIK
1575 Delucchi Lane
Suite 115-32
Reno, Nevada 89502

UNITED STATES 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.

OBER / KALER
c/o Royal W. Craig
120 East Baltimore Street
Baltimore MD 21202

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Porter	:	
Application No. 10/641,974	:	DECISION ON PETITION
Filed: August 15, 2003	:	PURSUANT TO
Attorney Docket No. EMASS-PA	:	37 C.F.R. § 1.181(A)
Title: SYSTEM FOR ONLINE	:	
LENDING SERVICES VIA AN	:	
APPLICATION SERVICE PROVIDER	:	
NETWORK	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on November 13, 2004.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed November 10, 2003, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 11, 2004. A notice of abandonment was mailed on October 29, 2004.

With this petition, Petitioner has asserted that both a "drawing change authorization request" and Figures 1-4 were timely filed, and both were timely received on December 3, 2003. Petitioner has submitted a copy of this response, a postcard receipt that establishes that "two sets of copies" of "Figures 1 thru (sic) 4" were received in the Office on December 3, 2003, a copy of the submission which contains the Express Mail label number EK785610667US, and a copy of the Express Mail label which bears

this Express Mail label number and contains the text "12-3-03" in the "date in" field.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted. It appears that this submission was subsequently misplaced in the Office.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by OPAP 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 OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for 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
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MAILED
DEC 08 2010
OFFICE OF PETITIONS

PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON TX 77056

In re Patent No. 7,678,386 :
Issue Date: March 16, 2010 :
Application No. 10/642,064 : DECISION ON PETITION
Filed: August 15, 2003 :
Attorney Docket No. 4001.003086/UTSD:0893-5 U :

This is a decision on the Request Under 37 C.F.R. §3.81(b) To Correct Patentee's Errors In The Assignee's Name Printed In The Patent, filed April 16, 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). 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 that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form (PTO/SB/44) submitted with petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,678,386.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEREK, BLACKMON & VOORHEES, LLC
673 South Washington Street
Alexandria VA 22314

MAILED
MAR 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Eric BIVENS	:	
Application No. 10/642,130	:	DECISION ON PETITION
Filed: August 18, 2003	:	
Attorney Docket No. PA-219	:	

This is a decision on the petition, filed October 13, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 29, 2010 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 30, 2010. *See* MPEP 1214.06.

Petitioner requests withdrawal of the abandonment, stating that it was improperly issued.

In view of the Board Decision of June 29, 2010, petitioners were given two (2) months from the date of the decision to reopen prosecution or request rehearing. No reply was received therefore the petition cannot be granted at this time.

The petition fails to satisfy requirements of 37 CFR 1.8(b). Therefore, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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 Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/
Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEREK, BLACKMON & VOORHEES, LLC
673 SOUTH WASHINGTON STREET
ALEXANDRIA VA 22314

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Eric BIVENS	:	
Application No. 10/642,130	:	DECISION ON PETITION
Filed: August 18, 2003	:	
Attorney Docket No. PA-219	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 29, 2010 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 30, 2010. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Board Decision of June 29, 2010 is 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 Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of :
Moore :
Application No. 10/642,309 : DECISION ON SECOND RENEWED
Filed: August 18, 2003 : PETITION PURSUANT TO
Attorney Docket No. 60707-1330 : 37 C.F.R. § 1.47(B)
Title: OPERATING SYSTEM FOR :
EXECUTING COMPUTER SOFTWARE :
APPLICATIONS :

This is in response to the second renewed petition pursuant to 37 C.F.R. § 1.47(b), filed October 14, 2010.

This second renewed petition pursuant to 37 C.F.R. § 1.47(b) is **DISMISSED.**

The concurrently submitted petition pursuant to 37 C.F.R. § 1.183 is being **held in abeyance** so as to provide Petitioner an opportunity to respond to this decision.

On August 18, 2003 this application was filed with an unexecuted declaration, identifying Mark Justin Moore as the sole inventor. On August 18, 2004, an executed declaration was submitted, along with the surcharge associated with the late submission of the same. In a final Office action mailed on December 12, 2007, a non-final Office action mailed on July 2, 2008, and a final Office action mailed on January 21, 2009, the Examiner objected to the declaration.

A grantable petition under 37 C.F.R. § 1.47(b) requires:

(1) the petition fee of as set forth in 37 C.F.R. § 1.17(g);

(2) the surcharge as set forth in 37 C.F.R. § 1.16(e), if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventor;
(4) proof that either:
    (a) a copy of the application was sent or given to the non-signing inventor for review and proof that the non-signing inventor refused to sign, or;
    (b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. § 1.63.

An original petition pursuant to 37 C.F.R. § 1.47(b) was filed on November 23, 2009, along with, *inter alia*, the petition fee, a statement of facts, an assertion that the non-singing inventor cannot be found,[1] and the last known address of the non-signing inventor.[2] The original petition was dismissed via the mailing of a decision on January 29, 2010, which indicated that requirements (1) - (3) of Rule 1.47(b) had been satisfied, and requirements (4) - (7) had not been satisfied.

A renewed petition pursuant to 37 C.F.R. § 1.47(b) was filed on April 29, 200 along with, inter alia, a statement pursuant to 37 C.F.R. § 3.73(b),[3] proof of irreparable damage, and an acceptable declaration. The renewed petition was dismissed via the mailing of a decision on January 29, 2010, which indicated that to date, requirements (1) - (3) and (5) - (7) have been satisfied.

Regarding the fourth requirement of Rule 1.47(b), the decision on the original petition set forth, *in pertinent part*:

> Petitioner has indicted that he has inquired with the non-signing inventor's former co-workers,[4] performed "multiple Internet

1 Original petition, pages 1 and 4.
2 Id. at 3.
3 It is noted that the corresponding assignment was recorded in the Office on February 16, 2010. Additional assignments were recorded on March 1, 2010 and March 11, 2010.
4 Original Petition, page 2. See also Exhibits C4 and C5.

> searches" for this individual,[5] and neither these communications nor these searches were successful in locating this individual.[6] *As Petitioner has set forth that the non-signing inventor cannot be found or reached, Petitioner is required to establish that a diligent effort was made to locate this individual.* However the cursory searches that were performed for the non-signing inventor using three online search engines and inquiries with former co-workers do not constitute a diligent effort at locating this individual. The record does not support a finding that diligent attempts were made to obtain a forwarding address or to locate the non-signing inventor by means such as through telephone, databases, or a private locator service. If such searches are performed, and are sufficiently broad so as to provide a reasonable opportunity to locate this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof required under 37 C.F.R. § 1.47 that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.
>
> Emphases included.

The decision on the renewed petition set forth, in pertinent part:

> With this renewed petition, Petitioner has indicated that he contacted a Spanish law firm and made the additional step of mailing a letter to the non-signing inventor on February 12, 2010.[7] The sending of a letter, coupled with the prior efforts which have been undertaken, do not constitute a diligent effort at locating the non-signing inventor.

With this second renewed petition, Petitioner has indicated that a private investigation service was retained, and has described a conversation between an agent of the private investigation service and the non-singing inventor. However, no statement from the agent of the private investigation service has been provided, and as set forth on page 3 of both the decision on the original petition and the decision on the renewed petition:

> Details of the efforts to locate the non-signing inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.
>
> Emphases included.

It follows that the description of the conversation which allegedly took place between an agent of the private investigation service and the non-singing inventor cannot be

---

5 Original Petition, page 2. See also Exhibit C6 and C7.
6 Exhibits C5 and C7, submitted with the original petition.
7 Exhibit C8, submitted with the renewed petition. See also Exhibits C10 and C11, submitted contemporaneously therewith.

accepted, due to the fact that it appears to be based on hearsay: the record strongly suggests that Petitioner does not have firsthand knowledge of the contents of this conversation.

On third renewed petition, Petitioner should include a statement of facts from the agent of the private investigation service.

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 "Third Renewed Petition pursuant to 37 C.F.R. § 1.47(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any such third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[8] hand-delivery,[9] or facsimile.[10] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[11]

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[12] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
10 (571) 273-8300: please note this is a central facsimile number.
11 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
12 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

Paper No.

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
MAY 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Moore	:	
Application No. 10/642,309	:	DECISION ON THIRD RENEWED
Filed: August 18, 2003	:	PETITION PURSUANT TO
Attorney Docket No. 60707-1330	:	37 C.F.R. § 1.47(B)
Title: OPERATING SYSTEM FOR	:	
EXECUTING COMPUTER SOFTWARE	:	
APPLICATIONS	:	

This is in response to the third renewed petition pursuant to 37 C.F.R. § 1.47(b), filed February 8, 2011.

This third renewed petition pursuant to 37 C.F.R. § 1.47(b) is **GRANTED**.

Receipt is acknowledged of the concurrently-submitted one-month extension of time so as to make timely this submission.

On August 18, 2003 this application was filed with an unexecuted declaration, identifying Mark Justin Moore as the sole inventor. On August 18, 2004, an executed declaration was submitted, along with the surcharge associated with the late submission of the same. In a final Office action mailed on December 12, 2007, a non-final Office action mailed on July 2, 2008, and a final Office action mailed on January 21, 2009, the Examiner objected to the declaration.

A grantable petition under 37 C.F.R. § 1.47(b) requires:

(1) the petition fee as set forth in 37 C.F.R. § 1.17(g);
(2) the surcharge as set forth in 37 C.F.R. § 1.16(e),

if the petition is not filed at the time of filing the application;

(3) a statement of the last known address of the non-signing inventor;

(4) proof that either:

(a) a copy of the application was sent or given to the non-signing inventor for review and proof that the non-signing inventor refused to sign, or;

(b) proof that diligent efforts have been made to locate the non-signing inventor

(5) proof that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;

(6) proof of irreparable damage, and;

(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. § 1.63.

An original petition pursuant to 37 C.F.R. § 1.47(b) was filed on November 23, 2009, and was dismissed via the mailing of a decision on January 29, 2010, which indicated that requirements (1) - (3) of Rule 1.47(b) had been satisfied, and requirements (4) - (7) had not been satisfied.

A renewed petition pursuant to 37 C.F.R. § 1.47(b) was filed on April 29, 2010 along with, *inter alia*, a one-month extension of time so as to make timely the response. The renewed petition was dismissed via the mailing of a decision on June 14, 2010, which indicated that as of the mailing date of the decision, requirements (1) - (3) and (5) - (7) had been satisfied. The decision indicated that the fourth requirement had not been satisfied.

A second renewed petition pursuant to 37 C.F.R. § 1.47(b) was filed October 14, 2010, along with, *inter alia*, a two-month extension of time so as to make timely the response. The second renewed petition was dismissed via the mailing of a decision on November 22, 2010, which indicated that the fourth requirement of Rule 1.47(b) had not been satisfied.

With this third renewed petition, Petitioner has satisfied the fourth requirement of Rule 1.47(b).

Consequently, each of the requirements of 37 C.F.R. § 1.47(b) has been met.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. § 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address that appears on the declaration that was submitted on April 29, 2010. Notice of the filing of this application will also be published in the Official Gazette.

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 present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark Justin Moore
7 George Street
Cambridge CB4 1 AL
UNITED KINGDOM

MAILED
MAY 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Moore	:	
Application No. 10/642,309	:	LETTER
Filed: August 18, 2003	:	
Attorney Docket No. 60707-1330	:	
Title: OPERATING SYSTEM FOR EXECUTING COMPUTER SOFTWARE APPLICATIONS	:	

Dear Mr. Moore:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the Assignee of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests

for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No : 6,758,455 B2
Ser. No. : 10/642,344
Inventor(s) : David Weck, et. al.
Issued : July 6, 2004

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

Allan M. Lowe
Lowe Hauptman Ham & Berner, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/19/12

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10642528 Patent No.: 7160327

CofC mailroom date: 02/09/12

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: Should the changes to Related U.S. Application Data be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** All changes apply.

PAGE 1/2 * RCVD AT 2/23/2012 7:58:43 AM [Eastern Standard Time] * SVR:W-PTOFAX-001/31 * DNIS:2733421 * CSID:7033087769 * DURATION (mm-ss):01-09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments: _____

3758

SPE **Art Unit**

PAGE 2/2 * RCVD AT 2/23/2012 7:58:43 AM [Eastern Standard Time] * SVR:W-PTOFAX-001/31 * DNIS:2733421 * CSID:7033087769 * DURATION (mm-ss):01-09

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,542	08/14/2003	Jun Ishii	393032040000	1959

25224 7590 08/11/2010
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

EXAMINER
QIN, JIANCHUN

ART UNIT	PAPER NUMBER
2832	

MAIL DATE	DELIVERY MODE
08/11/2010	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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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

In re Application of:	:	
Jun Ishii et al.	:	DECISION *SUA SPONTE*
Serial No.: 10/642,542	:	WITHDRAWING HOLDING
Filed: August 14, 2003	:	OF ABANDONMENT
Attorney Docket No.: 393032040000	:	

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A decision on appeal by the Board of Patent Appeals and Interferences (BPAI) was mailed on September 23, 2009, affirming the final rejections of claims 1, 4, 11, 12 and 15. Pending claims 16-33 are allowed and were not subject to the appeal. A Notice of Abandonment was mailed on November 30, 2009.

Pursuant to MPEP §1214.06. II. Finally rejected claims 1, 4, 11, 12 and 15 and the claims depending therefrom should properly be cancelled and allowed claims 16-33 passed to issue by the examiner. It was not appropriate to hold the application abandoned. Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

It is noted that a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 have been submitted. The RCE will be processed and the application will be forwarded to the examiner for further examination.

Any inquiry regarding this decision should be directed to Elvin Enad, Supervisory Patent Examiner, at (571) 272-1990.

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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RG & ASSOCIATES
1103 TWIN CREEKS
STE. 120
ALLEN TX 75013

MAILED
DEC 28 2010
OFFICE OF PETITIONS

In re Application of :
Andrew Silver :
Application No. 10/642,841 : ON PETITION
Filed: August 18, 2003 :
Attorney Docket No. 19018.00011 :

This is a decision on the petition filed November 9, 2010 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 7, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on October 8, 2009. See MPEP 1215.04. A Notice of Abandonment was mailed on April 13, 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 (1).

As to item 1, the amendment is not a proper reply. The amendment can be filed along with an RCE. Proper replies include an Appeal Brief, RCE (Request for Continued Prosecution), or the filing of a continuing application under 37 CFR 1.53(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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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RG & ASSOCIATES
1103 TWIN CREEKS
STE. 120
ALLEN TX 75013

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Andrew Silver	:	
Application No. 10/642,841	:	ON PETITION
Filed: August 18, 2003	:	
Attorney Docket No. 19018.00011	:	

This is a decision on the renewed petition filed January 12, 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 as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 7, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on October 8, 2009. See MPEP 1215.04. A Notice of Abandonment was mailed on April 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3687 for appropriate action by the Examiner in the normal course of business on the reply received January 12, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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RG & ASSOCIATES
1103 TWIN CREEKS
STE. 120
ALLEN TX 75013

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Application of :
Silver :
Application No. 10/642,841 : DECISION ON PETITION
Filed: August 18, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 19018.00011 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 10, 2011, 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 amendment filed October 30, 2008.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3687 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application, as listed in the November 30, 2008 amendment.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/642,841	08/18/2003	3687	375	19018.00011	20	3

CONFIRMATION NO. 4077

CORRECTED FILING RECEIPT

67208
RG & ASSOCIATES
1103 TWIN CREEKS
STE. 120
ALLEN, TX 75013

OC000000048576798

Date Mailed: 07/05/2011

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)

Andrew Silver, Dallas, TX;

Power of Attorney: The patent practitioners associated with Customer Number 67208

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/404,462 08/19/2002

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 11/11/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/642,841**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

System and method for managing restaurant customer data elements

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAILED

JUN 03 2011

OFFICE OF PETITIONS

K&L GATES LLP
P.O. BOX 1135CHICAGO IL 60690

In re Application :
Binh T. Nguyen et al. :
Application No. 10/642,937 : DECISION ON APPLICATION
Filed: August 18, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **3718611-06135** :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed on May 19, 2011. Applicants request that the initial determination of Patent Term Adjustment for the above-identified patent be corrected from 1116 days to 675 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PALM and PAIR screen to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 675 days. A copy of the updated PALM screen, showing the revised determination, is enclosed.

On April 1, 2011, 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 1116 days (1260 days of Office delay and 144 days of applicant delay). This application for patent term adjustment was timely filed prior to payment of the issue fee.

Applicants assert that under 35 USC 132, the first action mailed by the USPTO was the restriction requirement mailed January 9, 2007 and thus, the period from fourteen months after the date the application was filed until the date the restriction requirement was mailed, was a period of 813 days Office delay pursuant to 37 CFR 1.702(a)(1), and not 1254 days for the mailing of the non-Final Office Action on March 25, 2008.

Applicants' argument is persuasive. The restriction requirement mailed January 9, 2007 is the first Office action in the application. As such, the 14 month period for Office delay started on October 18, 2004 and ended on January 9, 2007, and the period of adjustment for Office delay under 37 CFR 1.702(a)(1) is 813 days. The period of adjustment for Office delay of 1254 days will be removed and a period of 813 days will be entered.
In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is SIX HUNDRED SEVENTY-FIVE (675) 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 of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

/Patricia Faison-Ball/
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of update PALM calculation

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10642937 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10642937

Application Filing Date	08/18/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1260
A Delays	1260	PTO Manual Adjustment	-441
B Delays	0	Applicant Delay (APPL)	144
C Delays	0	Total PTA (days)	675

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL		Parent Action Number
168	06/01/2011		P028	Adjustment of PTA Calculation by PTO	813		0	
167	06/01/2011		P028	Adjustment of PTA Calculation by PTO		1254	0	
154	04/01/2011		MN/=.	Mail Notice of Allowance			0	
153	03/29/2011		N/=.	Notice of Allowance Data Verification Completed			0	
152	03/29/2011		IREV	Issue Revision Completed			0	
151	03/29/2011		DVER	Document Verification			0	
150	03/29/2011		EX.A	Examiner's Amendment Communication			0	
148	03/28/2011		CNTA	Allowability Notice			0	
149	03/25/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0	
143	03/04/2011		FWDX	Date Forwarded to Examiner			0	
140	03/04/2011		ABN9	Disposal for a RCE / CPA / R129			0	
142	03/02/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0	
141	03/02/2011		RCEX	Request for Continued Examination (RCE)			0	
139	03/02/2011		BRCE	Workflow - Request for RCE - Begin			0	
138	02/23/2011		EML_NTR	Email Notification			0	
137	02/23/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0	
136	02/15/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0	
135	01/21/2011		ELC_RVW	Electronic Review			0	
134	01/21/2011		EML_NTF	Email Notification			0	
133	01/21/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0	
132	01/18/2011		CTFR	Final Rejection			0	
131	11/02/2010		EML_NTR	Email Notification			0	
130	11/02/2010		PA..	Change in Power of Attorney (May Include Associate POA)			0	
129	10/29/2010		C.AD	Correspondence Address Change			0	
128	10/29/2010		FWDX	Date Forwarded to Examiner			0	
127	10/25/2010	09/25/2010	A...	Response after Non-Final Action		30	122	
126	10/25/2010		XT/G	Request for Extension of Time - Granted			0	
125	10/24/2010		DOCK	Case Docketed to Examiner in GAU			0	
124	06/25/2010		ELC_RVW	Electronic Review			0	
123	06/25/2010		EML_NTF	Email Notification			0	
122	06/25/2010		MCTNF	Mail Non-Final Rejection			0	
121	06/21/2010		CTNF	Non-Final Rejection			0	
119	06/15/2010		FWDX	Date Forwarded to Examiner			0	
116	06/15/2010		ABN9	Disposal for a RCE / CPA / R129			0	
120	06/10/2010		M844	Information Disclosure Statement (IDS) Filed			0	
118	06/10/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0	
117	06/10/2010		RCEX	Request for Continued Examination (RCE)			0	
115	06/10/2010		BRCE	Workflow - Request for RCE - Begin			0	
78	06/10/2010		WIDS	Information Disclosure Statement (IDS) Filed			0	
114	03/10/2010		ELC_RVW	Electronic Review			0	
113	03/10/2010		EML_NTF	Email Notification			0	
112	03/10/2010	03/04/2010	MCTFR	Mail Final Rejection (PTOL - 326)	6		107	
111	03/01/2010		CTFR	Final Rejection			0	
108	12/24/2009		FWDX	Date Forwarded to Examiner			0	
110	11/04/2009		IDSC	Information Disclosure Statement considered			0	
109	11/04/2009	11/04/2009	M844	Information Disclosure Statement (IDS) Filed			107	
107	11/04/2009		A...	Response after Non-Final Action			0	
106	11/04/2009		WIDS	Information Disclosure Statement (IDS) Filed			0	
105	08/04/2009		MCTNF	Mail Non-Final Rejection			0	
104	08/03/2009		CTNF	Non-Final Rejection			0	
99	07/20/2009		FWDX	Date Forwarded to Examiner			0	
97	07/20/2009		FWDX	Date Forwarded to Examiner			0	
95	07/20/2009		ABN9	Disposal for a RCE / CPA / R129			0	

103	07/16/2009		IDSC	Information Disclosure Statement considered			0
101	07/16/2009		RCAP	Reference capture on IDS			0
100	07/16/2009	07/16/2009	M844	Information Disclosure Statement (IDS) Filed			96
98	07/16/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
96	07/16/2009	05/20/2009	RCEX	Request for Continued Examination (RCE)		57	85
94	07/16/2009		XT/G	Request for Extension of Time - Granted			0
93	07/16/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
92	07/16/2009		BRCE	Workflow - Request for RCE - Begin			0
91	06/18/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
90	06/17/2009		CTAV	Advisory Action (PTOL-303)			0
88	06/07/2009		FWDX	Date Forwarded to Examiner			0
102	05/20/2009		IDSC	Information Disclosure Statement considered			0
89	05/20/2009		M844	Information Disclosure Statement (IDS) Filed			0
87	05/20/2009		A.NE	Amendment after Final Rejection			0
86	05/20/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
85	02/20/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
84	02/17/2009		CTFR	Final Rejection			0
83	12/11/2008		IDSC	Information Disclosure Statement considered			0
82	12/11/2008		RCAP	Reference capture on IDS			0
81	12/11/2008	11/13/2008	EIDS.	Electronic Information Disclosure Statement		28	76
80	12/11/2008		IDSC	Information Disclosure Statement considered			0
79	12/11/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
77	11/14/2008		FWDX	Date Forwarded to Examiner			0
76	11/13/2008		ELC.	Response to Election / Restriction Filed			0
75	10/14/2008		MCTRS	Mail Restriction Requirement			0
74	10/10/2008		CTRS	Restriction/Election Requirement			0
73	07/30/2008		FWDX	Date Forwarded to Examiner			0
71	07/10/2008		C.ADB	Correspondence Address Change			0
72	06/25/2008		A...	Response after Non-Final Action			0
70	03/25/2008	10/18/2004	MCTNF	Mail Non-Final Rejection	1254		0.5
69	03/17/2008		CTNF	Non-Final Rejection			0
65	01/09/2008		FWDX	Date Forwarded to Examiner			0
63	01/09/2008		FWDX	Date Forwarded to Examiner			0
61	01/09/2008		ABN9	Disposal for a RCE / CPA / R129			0
68	01/02/2008		IDSC	Information Disclosure Statement considered			0
67	01/02/2008		M844	Information Disclosure Statement (IDS) Filed			0
66	01/02/2008		M844	Information Disclosure Statement (IDS) Filed			0
58	01/02/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
64	12/28/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
62	12/28/2007	11/29/2007	RCEX	Request for Continued Examination (RCE)		29	57
60	12/28/2007		XT/G	Request for Extension of Time - Granted			0
59	12/28/2007		BRCE	Workflow - Request for RCE - Begin			0
57	08/29/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
56	08/28/2007		CTFR	Final Rejection			0
51	06/20/2007		FWDX	Date Forwarded to Examiner			0
55	06/18/2007		IDSC	Information Disclosure Statement considered			0
54	06/18/2007		IDSC	Information Disclosure Statement considered			0
53	06/18/2007		LET.	Miscellaneous Incoming Letter			0
52	06/18/2007	06/18/2007	EIDS.	Electronic Information Disclosure Statement			50
50	06/18/2007		A...	Response after Non-Final Action			0
49	06/18/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
48	06/18/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
47	03/19/2007		MCTNF	Mail Non-Final Rejection			0
46	03/16/2007		CTNF	Non-Final Rejection			0
38	01/29/2007		FWDX	Date Forwarded to Examiner			0
37	01/16/2007		ELC.	Response to Election / Restriction Filed			0
36	01/09/2007		MN574	Mail Notification of Terminal Disclaimer - Accepted			0
35	01/09/2007		MCTRS	Mail Restriction Requirement			0
34	01/04/2007		CTRS	Restriction/Election Requirement			0
33	11/27/2006		DOCK	Case Docketed to Examiner in GAU			0
43	11/08/2006		IDSC	Information Disclosure Statement considered			0
32.7	11/08/2006		M844	Information Disclosure Statement (IDS) Filed			0
32	11/08/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
42	10/10/2006		IDSC	Information Disclosure Statement considered			0
31.7	10/10/2006		EIDS.	Electronic Information Disclosure Statement			0
31	10/10/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
30	10/05/2006		DOCK	Case Docketed to Examiner in GAU			0
28	04/19/2006		PA..	Change in Power of Attorney (May Include Associate POA)			0
29	04/18/2006		C.AD	Correspondence Address Change			0
40	05/19/2005		IDSC	Information Disclosure Statement considered			0
27	05/19/2005		RCAP	Reference capture on IDS			0
26.7	05/19/2005		M844	Information Disclosure Statement (IDS) Filed			0
26	05/19/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
44	01/28/2005		IDSC	Information Disclosure Statement considered			0
25	01/28/2005		RCAP	Reference capture on IDS			0
24.7	01/28/2005		M844	Information Disclosure Statement (IDS) Filed			0
24	01/28/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
45	10/14/2004		IDSC	Information Disclosure Statement considered			0
23	10/14/2004		RCAP	Reference capture on IDS			0
22.7	10/14/2004		M844	Information Disclosure Statement (IDS) Filed			0
22	10/14/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
21	10/12/2004		LET.	Miscellaneous Incoming Letter			0
17	05/05/2004		N574	Notification of Terminal Disclaimer - Accepted			0
41	04/23/2004		IDSC	Information Disclosure Statement considered			0
20	04/23/2004		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
19.7	04/23/2004		M844	Information Disclosure Statement (IDS) Filed			0
19	04/23/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
18	04/23/2004		RCAP	Reference capture on IDS			0

16	04/23/2004	DIST	Terminal Disclaimer Filed	0
15	04/15/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
14	04/15/2004	DOCK	Case Docketed to Examiner in GAU	0
12	04/13/2004	TI1050	Transfer Inquiry to GAU	0
11	04/02/2004	CLSS	CASE CLASSIFIED BY OIPE	0
39	01/05/2004	IDSC	Information Disclosure Statement considered	0
13.7	01/05/2004	M844	Information Disclosure Statement (IDS) Filed	0
13	01/05/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
5	11/12/2003	COMP	Application Is Now Complete	0
8	11/11/2003	WROIPE	Application Return from OIPE	0
7	11/11/2003	ROIPE	Application Return TO OIPE	0
6	11/11/2003	OIPE	Application Dispatched from OIPE	0
4	11/03/2003	CLSS	CASE CLASSIFIED BY OIPE	0
3	11/03/2003	L194	Cleared by OIPE CSR	0
2	10/01/2003	SCAN	IFW Scan & PACR Auto Security Review	0
10	08/18/2003	RCAP	Reference capture on IDS	0
1	08/18/2003	IEXX	Initial Exam Team nn	0
0.5	08/18/2003	EFILE	Filing date	0

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CHICAGO IL 60690

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Patent No. 8,002,630
Issue Date: August 23, 2011
Application No. 10/642,937
Filed: August 18, 2003
Attorney Docket No. 3718611-06135

:DECISION ON REQUEST FOR
:RECONSIDERATION OF
:PATENT TERM ADJUSTMENT
:AND
:NOTICE OF INTENT TO ISSUE
:CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed September 20, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from six hundred seventy-five (675) days to one thousand twenty-two (1022) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand twenty-two **(1022)** days.

Patentee is given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under
§ 1.136.

On August 23, 2011, the above-identified application matured into U.S. Patent No. 8,002,630 with a revised Patent Term Adjustment of 675 days. The instant request for reconsideration filed September 20, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d).

Patentees disclose that the patent term adjustment of 675 days indicated on the front of the patent is incorrect because "Patentees filed an Information Disclosure Statement on January 2, 2008, subsequent to a reply filed on December 28, 2007. Patentees were accorded 0 days delay for a supplemental response. In good faith and candor, Patentees submit that the supplemental response should have been accorded a total Applicant Delay of 5 days for delay from December 28, 2007, to January 2, 2008. See 37 C.F.R. § 1.704(c)(8).

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 149 days (i.e., the sum of 29 days, 28 days, 57 days, 30 days and 5 days).

The patent term adjustment in this instance has also been reviewed as it relates to the overlap between the "A" delay and "B" delay. "A" delay is calculated from October 18, 2004 to January 9, 2007 for 813 days and from March 4, 2009 to March 10, 2009 for 6 days. On the other hand, 496 days of "B" delay is calculated from the day after the date that is three years from the day of filing, August 18, 2006 until December 28, 2007, the filing of a request for continued examination (RCE). (The filing of an RCE cuts off the ability to accumulate additional patent term adjustment under the three-year pendency provision. Thus, the period beginning on the day of filing of the RCE is excluded from the three year period. See 35 U.S.C. 154(b)(1)(B)(I)). Thus, for the period from August 18, 2006 to January 9, 2007, 144 days, the "A" delay and "B" delay occur on the same days and in accordance with the decision in Wyeth, the periods overlap. As such, applicant is entitled to a patent term adjustment of 1022 days (819 + 496 reduced by 144 overlap – 149 (applicant delay).

In view thereof, the patent should have issued with a revised patent term adjustment of 1022 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 **one thousand twenty-two (1022)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,002,630 B2

DATED : September 20, 2011

INVENTOR(S) : Binh T. Nguyen

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 (675) days

Delete the phrase "by 675 days" and insert – by 1022 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)
7,131,284	2006-11-07	10/643,388	2003-08-19	WGP-35799

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	◯	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael W. Garvey/	Date (YYYY-MM-DD)	2011-05-26
Name	Michael W. Garvey	Registration Number	35878

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. 7131284
Issue Date: November 7,2006
Application No. 10643388
Filed: August 19,2003
Attorney Docket No. 35799

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 26,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 26,2011 .
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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Lawrence Livermore National Security, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE CA 94551-0808

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Application of :
Langlois, et al. :
Application No. 10/643,797 :
Filed: August 19, 2003 :
Attorney Docket No. IL-11052

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to seek court review of the decision by the Board of Patent Appeals and Interferences mailed February 3, 2010. The application became abandoned on April 4, 2010. A Notice of Abandonment was mailed May 6, 2010.

The divisional application accorded application serial number 12/786,248 filed May 24, 2010, is noted. With continuity having been established, the subject application is again abandoned in favor of the divisional application.

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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ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD CA 92008

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application
Bhanot, et al.
Application No. 10/643,801
Filed: August 13, 2003
Dkt. No.: RTS-0678US (058823-0110)

: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 20, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 352 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the

patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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Novartis Vaccins and Diagnostics Inc.
Intellectural Property-X100B
PO Box 8097
Emeryville CA 94662-8097

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,470,709	:
Barsanti et al.	: DECISION UPON REMAND AND
Issue Date: December 30,2008	: RECONSIDERATION OF
Application No. 10/644,055	: PATENT TERM ADJUSTMENT
Filed: August 19, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 19099.004	: TO ISSUE CERTIFICATE OF
Title: Benzimidazole	: CORRECTION
Quinolinones and Uses Thereof	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred and ten(810) 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 and ten (810) 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 : 7,470,709

DATED : **October 19, 2003** **DRAFT**

INVENTOR(S) : Barsanti 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 392 days

Delete the phrase "by 392" and insert – by 810 days--

Day : Friday
Date: 10/1/2010

PALM INTRANET

Time: 11:40:35

PTA Calculations for Application: 10/644055			
Application Filing Date:	08/19/2003	PTO Delay (PTO):	602
Issue Date of Patent:	12/30/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	210
Post-Issue Petitions:	0	Total PTA (days):	810
PTO Delay Adjustment:	418		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
143	10/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	418		
135.5	12/10/2008	PTA 36 MONTHS			
135	12/30/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
134	12/02/2008	EXPORT TO FINAL DATA CAPTURE			
133	12/01/2008	FINISHED INITIAL DATA CAPTURE			
132	12/01/2008	DISPATCH TO FDC			
131	11/13/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
130	11/12/2008	ISSUE FEE PAYMENT VERIFIED			
129	11/12/2008	ISSUE FEE PAYMENT RECEIVED			
128	10/17/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
127	10/15/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
125	10/08/2008	TC RETURN TO PUBS			
124	10/08/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
123	10/07/2008	WORKFLOW - QUERY REQUEST - FINISH			
120	09/30/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
119	09/29/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
118	09/25/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
117	09/19/2008	WORKFLOW - QUERY REQUEST - BEGIN			
116	08/28/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
115	08/18/2008	EXPORT TO INITIAL DATA CAPTURE			

114	08/15/2008	MAIL NOTICE OF ALLOWANCE			
113	08/14/2008	ISSUE REVISION COMPLETED			
112	08/13/2008	DOCUMENT VERIFICATION			
111	08/13/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
110	08/13/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
109	08/08/2008	NOTICE OF ALLOWABILITY			
106	06/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
105	06/20/2008	REFERENCE CAPTURE ON IDS			
104	06/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	102
103	07/14/2008	DATE FORWARDED TO EXAMINER			
102	06/20/2008	RESPONSE AFTER NON-FINAL ACTION		91	99
101	06/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
100	06/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
99	12/21/2007	MAIL NON-FINAL REJECTION			
98	12/20/2007	NON-FINAL REJECTION			
97	10/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	10/22/2007	DATE FORWARDED TO EXAMINER			
94	10/12/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	87
93	10/22/2007	DISPOSAL FOR A RCE / CPA / R129			
92	10/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
91	10/12/2007	REFERENCE CAPTURE ON IDS			
90	10/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
89	10/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	10/11/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
87	06/11/2007	MAIL FINAL REJECTION (PTOL - 326)			
86	06/08/2007	FINAL REJECTION			
85	12/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	03/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
83	01/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

82	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
81.7	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	79
81	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	03/28/2007	DATE FORWARDED TO EXAMINER			
79	03/16/2007	RESPONSE AFTER NON-FINAL ACTION		88	75
78	03/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
77	12/19/2006	REFERENCE CAPTURE ON IDS			
76.7	12/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	12/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	09/18/2006	MAIL NON-FINAL REJECTION			
74	09/15/2006	NON-FINAL REJECTION			
73	06/05/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	07/25/2006	DATE FORWARDED TO EXAMINER			
71	07/10/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
68.7	06/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	06/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	06/13/2006	MAIL RESTRICTION REQUIREMENT	602		-1
66	06/09/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
62	05/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
61	11/17/2003	REFERENCE CAPTURE ON IDS			
60	12/15/2005	PRELIMINARY AMENDMENT			
52.7	04/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	04/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	03/16/2006	REFERENCE CAPTURE ON IDS			
46.7	03/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	03/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	02/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
44.7	01/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

44	01/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42.7	08/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	08/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	03/14/2005	REFERENCE CAPTURE ON IDS			
40.7	03/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	03/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39.7	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38.7	12/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	12/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	09/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
36	06/08/2004	MAIL-PETITION DECISION - GRANTED			
35	12/22/2003	REFERENCE CAPTURE ON IDS			
34.7	12/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	12/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	12/15/2003	PRELIMINARY AMENDMENT			
32.7	11/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	11/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	05/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
30	01/02/2004	PETITION ENTERED			
29	03/01/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	01/29/2004	APPLICATION RETURN FROM OIPE			
26	01/30/2004	APPLICATION IS NOW COMPLETE			
25	12/11/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
24	01/30/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
23	01/29/2004	APPLICATION RETURN TO OIPE			

22	01/29/2004	APPLICATION RETURN FROM OIPE			
21	01/30/2004	APPLICATION IS NOW COMPLETE			
19	01/29/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
18	01/29/2004	APPLICATION RETURN TO OIPE			
17	01/29/2004	APPLICATION RETURN FROM OIPE			
16	01/29/2004	APPLICATION IS NOW COMPLETE			
14	01/29/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
13	01/29/2004	APPLICATION RETURN TO OIPE			
12	01/29/2004	APPLICATION DISPATCHED FROM OIPE			
11	01/29/2004	APPLICATION IS NOW COMPLETE			
9	12/11/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	12/30/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	11/17/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/04/2003	CASE CLASSIFIED BY OIPE			
3	11/04/2003	CLEARED BY OIPE CSR			
2	10/01/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/19/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PCT LEGAL ADMININSTRATION

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of:	:
JONES, David, H., A., et al.	: DECISION ON SECOND RENEWED
Application No. 10/644,256	: PETITION
Filed: August 20, 2003	:
Attorney Docket No. 2578-6077US	:

This is a decision on the second renewed petition under 37 CFR 1.78(a)(3), (a)(6), and 1.55(c) filed May 17, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to a number of prior-filed applications, as set forth in the concurrently filed amendment.

The petition is DISMISSED without prejudice

As discussed in the decisions previously mailed herein, a grantable petition under 37 CFR 1.78(a)(3), (a)(6) and 1.55(c) require that appropriate references to the prior filed applications be added to the application. The present second renewed petition was accompanied by an amendment seeking to add the required references to the prior-filed applications. However, on March 15, 2010, a final Office Action was mailed herein rejecting the remaining claims, and the examiner has indicated that the proposed amendment submitted with the present renewed petition would not be entered because the amendment raises new issues which would require further consideration and/or search. Therefore, since the amendment does not *prima facie* place the application in condition for allowance, petitioner must submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file an amendment that *prima facie* places the application in condition for allowance, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this petition must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

The application is being referred to the examiner for appropriate treatment of the amendment filed with the present petition.

BLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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PCT LEGAL ADMINISTRATION

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of:		
JONES, David, H.A., et al.	:	DECISION ON RENEWED
Application No.: 10/644,256	:	PETITION
Filing Date: August 20, 2003	:	(37 CFR 1.78(a) and 1.55(c))
Attorney's Docket No.: 2578-6077US	:	

In decisions mailed herein on 30 September 2008, 21 April 2009, 09 March 2010, and 23 August 2010, applicants' petitions under 37 CFR 1.78(a)(3) and (a)(6) and 37 CFR 1.55(c) were dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. The most recent decision found that applicants' proposed amendment to the specification containing the required references to the prior-filed applications could not be entered because a final Office Action had been issued and the examiner had indicated that the proposed amendment would not be entered.

On September 01, 2010, applicants filed a "Request For Continued Examination (RCE)" accompanied by, among other materials, the "Renewed Petition Under 37 C.F.R. §§ 1.78(a)(3), 1.78(a)(6), and 1.55(c) For Acceptance Of Unintentionally Delayed Priority Claims" and the "Amendment Under 37 C.F.R. § 1.114" considered herein.

On 21 December 2010, applicants filed a "Supplemental Amendment."

1. Renewed Petition Under 37 CFR 1.78(a)(3) and (a)(6) Regarding Claims To Prior-Filed International And Provisional Applications

Applicants are seeking to add to the present application unintentionally delayed claims of domestic priority directed to international applications PCT/EP2003/007690 and PCT/EP03/50201 and to U.S. provisional application number 60/397,066. As discussed in the previous decisions, such petition is properly considered under 37 CFR 1.78(a)(3) and (a)(6).

A grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by the following:

(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), 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 Commissioner may require

additional where there is a question whether the delay was unintentional.

The present petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and (a)(6). Specifically, a proper reference to the prior-filed international and provisional applications is included in the "Supplemental Amendment" filed 21 December 2010.[1] Applicants have previously submitted payment of the required surcharge, and the petition includes a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of the unintentionally delayed claims for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and (a)(6), the petition is appropriately granted.

2. **Renewed Petition Under 37 CFR 1.55(c) Regarding Claim To Foreign Application EP 02077953.4**

The decision mailed on March 09, 2010 dismissed applicants' petition under 37 CFR 1.55(c) to add an unintentionally delayed foreign priority claim directed to EP 02077953.4, but the decision indicated that all but one of the conditions necessary to grant the petition were satisfied. Specifically, the decision found that (on the record at the time of such decision) the petition could not be granted because the effective filing date of the present application (August 20, 2003) was not within twelve months of the filing date of the foreign application (July 18, 2002).

Now, however, based on the granting of applicants' accompanying petition under 37 CFR 1.78(a)(3), the present application includes intermediate claims of domestic priority directed to international applications PCT/EP2003/007690, filed July 15, 2003, and PCT/EP03/50201, filed May 27, 2003. Because the filing dates of these domestic priority applications are less than twelve months after the July 18, 2002 filing date of the foreign application, the final requirement for granting the petition under 37 CFR 1.55(c) is now satisfied. The renewed petition to add a foreign priority claim directed to EP application number 02077953.4 is therefore appropriately granted.

CONCLUSION

Based on the above, the renewed petitions under 37 CFR 1.78(a)(3), (a)(6), and 1.55(c) are appropriately **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 (a)(6) and 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 119(a)-(d), 120 and 119(e) and 37 CFR

[1] It is noted that the materials filed by applicants on May 17, 2010 with respect to international application PCT/EP03/50201, including the copy of such application, resolved the defect in the priority reference to such international application discussed in the decision mailed on March 09, 2010.

1.78(a)(1), (a)(2), (a)(5), and (a)(6) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claims to the prior-filed international, provisional, and foreign applications accompanies this decision on petition.

Any questions concerning this decision may be directed to the undersigned. 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 1636 for further examination and for appropriate consideration by the examiner of applicants' entitlement to the added benefit claims under 35 U.S.C. 119(a)-(d), 120 and 119(e).

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3296

ATTACHMENT: Corrected Filing Receipt

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MAILED
APR 10 2012
OFFICE OF PETITIONS

In re Application of	:	
Daniel J. Philpott	:	
Application No. 10/644,354	:	ON PETITION
Filed: August 20, 2003	:	
Attorney Docket No. 60,130-1752;03MRA0141	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 20, 2012.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance, mailed October 17, 2011. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on January 18, 2012. The Office mailed a Notice of Abandonment on February 2, 2012.

Petitioner states that he did not receive the October 17, 2011 Notice of Allowance.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and

docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, petitioner has met the requirements above. In particular, petitioner has submitted a copy of a master docket report, showing all of the firms replies docketed for a due date of January 17, 2012. An entry for the instant application does not appear, supporting the conclusion that the Notice of Allowance was not received.

In view thereof, the holding of abandonment is **WITHDRAWN**.

Receipt of the issue and publication fees, submitted with the instant petition, is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Nakamura, et al.	:	
Application No. 10/644,738	:	DECISION GRANTING PETITIONS
Filed: August 21, 2003	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 2003_1187A	:	37 CFR 1.313(c)(2)

This is a decision on the petitions, filed March 22, 2011, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before June 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 18, 2008. The Notice of Abandonment was mailed July 11, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1,510 issue fee and the $300 publication fee, (2) the petition fee of $1,620, 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."

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.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This matter is being referred to Technology Center AU 1721 for processing the RCE and for consideration of the information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

AUG 25 2010

OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE.
NEW YORK NY 10103-3198

In re Application of	:
Tamar Tennenbaum	:
Application No. 10/644,775	: DECISION ON PETITION
Filed: August 21, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HEALOR-202	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 9, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 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 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 applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/644,775	08/21/2003	1647	2140	HEALOR-202	111	16

CONFIRMATION NO. 6931

CORRECTED FILING RECEIPT

24972
FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

OC000000043205396

Date Mailed: 08/25/2010

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)

Tamar Tennenbaum, Jerusalem, ISRAEL;

Assignment For Published Patent Application

Bar-Ilan University

Power of Attorney: The patent practitioners associated with Customer Number 24972

Domestic Priority data as claimed by applicant

This application is a CIP of 10/169,801 07/09/2002 PAT 7,402,571
which is a 371 of PCT/IL01/00675 07/23/2001
and is a CIP of 09/629,970 07/31/2000 ABN
This application 10/644,775
claims benefit of 60/486,906 07/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/17/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/644,775**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHODS AND PHARMACEUTICAL COMPOSITIONS FOR HEALING WOUNDS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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YARON MAYER
21 AHAD HA'AM ST.
JERUSALEM 92151 IL ISRAEL

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Mayer, et al.	:	
Application No. 10/644,841	:	ON PETITION
Filed: August 21, 2003	:	
Attorney Docket No.	:	

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 **GRANTED**.

This application became abandoned for failure to file a timely and proper response to the final Office action mailed February 9, 2009, which set a shortened statutory period for reply of three months from its mailing date. The application became abandoned on May 10, 2009. A Notice of Abandonment was mailed November 24, 2009.

The Request for Continued Examination filed November 25, 2010, is noted.

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 instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 2400, GAU 2432 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Joseph L. Felber
32 Habarzel Street
Tel Aviv 69710 ISRAEL

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-04-10

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10644901 Patent No.: 7333281

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Items 1-13 are denied and will not be entered because cylinders and tracks are different units of data. Such an amendment changes the scope and meaning of the claims.

Items 14 and 15 are approved and will be entered.

/JOSEPH H. FEILD/ 2627

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

Paper No.

STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS NJ 07724

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Alexei Lebedev	:	DECISION ON PETITION
Application No. 10/644,904	:	
Filed: August 21, 2003	:	
Atty Docket No. Algo-1	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 27, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed September 18, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time obtained, the application became abandoned effective December 19, 2007. A courtesy Notice of Abandonment was mailed April 4, 2008.

The petition includes the required reply in the form of an amendment, payment of the petition fee and the required statement of unintentional delay. No terminal disclaimer is required.

Technology Center AU 2628 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed September 27, 2010.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7056627	2006-06-06	10644964	2003-08-21	Q77092

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	◯ 3 ½ year	(2551)
◯ 7 ½ year	(1552)	◯ 7 ½ year	(2552)
◯ 11 ½ year	(1553)	◯ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2010-08-12
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 7056627
Issue Date: June 6,2006
Application No. 10644964
Filed: August 21,2003
Attorney Docket No. Q77092

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: June 22, 2011
TO: Certificates of Correction Branch
FROM: Alexa D. Neckel
SPE, Art Unit 1723
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,112,269 as specified on the attached Certificate.

This is a supplemental request because the inventorship was inadvertently listed incorrectly in the Request for Certificate of Correction mailed May 6, 2011.

/Alexa D. Neckel/
Supervisory Patent Examiner, Art Unit 1723

_____
Alexa D. Neckel, SPE
Art Unit 1723

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,112,269
Patented: September 26, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Michael L. Slaugenhaupt
Gary P. Tarcy
Neal R. Dando

/Alexa D. Neckel/
Supervisory Patent Examiner, Art Unit 1723

_____

Alexa D. Neckel
Supervisory Patent Examiner
Art Unit 1723

UNITED STATES 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. 7059803
Issue Date: June 13,2006
Application No. 10645245
Filed: August 21,2003
Attorney Docket No. 6605A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7059803	2006-06-13	10645245	2003-08-21	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Wayne Floe/	Date (YYYY-MM-DD)	2011-01-20
Name	Wayne Floe		

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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NOVAK, DRUCE & QUIGG, LLP
300 NEW JERSEY AVENUE, NW
FIFTH FLOOR
WASHINGTON, DC 20001

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of
Felix Paul Jaecklin
Application No. 10/645,601
Filed: August 22, 2003
Attorney Docket No. 21352

DECISION ON PETITION

This is a decision on the petition, filed June 8, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative a petition to revive under the unintentional provisions of 37 CFR 1.137(b).

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 28, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is also **DISMISSED**.

As to the petition under 37 CFR 1.181:

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition fails to satisfy items (2) and (3) above. In this regard, petition does not include a statement from the practitioner attesting to the fact that a search of the file jacket and docket records to indicate that the Notice was not received nor has petitioner provided a copy of the docket record where the non-received Office action would have been entered had it been received.

As to the petition under 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 petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (3).

With respect to item 1:

A petition to revive cannot be granted where there is an outstanding requirement. In this instance, there was no response to the outstanding Office action mailed February 12, 2009. A courtesy copy of this Office action is being mailed along with this decision. Accordingly, the petition to revive cannot be granted until the response to the Office action is received.

With respect to item 3:

The instant petition fails to contain the required statement of unintentional delay. 37 CFR 1.37(b) states 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. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (II)(C) and (D)).]

As authorized the $1620 petition fee has been charged to petitioner's deposit account.

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should

include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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300 NEW JERSEY AVENUE, NW
FIFTH FLOOR
WASHINGTON, DC 20001

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JUN 10 2011

OFFICE OF PETITIONS

In re Application of
Felix Paul Jaecklin
Application No. 10/645,601
Filed: August 22, 2003
Attorney Docket No. 21352

DECISION ON PETITION

This is a decision on the renewed petition, filed May 11, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 28, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 29, 2008.

Petitioner asserts that the Office action dated December 28, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Since petitioner has already satisfied the requirements of the Notice mailed December 28, 2007 by filing an amendment. This application is being referred to the Technology Center for further processing in accordance with this decision on petition.

/Carl Friedman/
Carl Friedman
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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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED
DEC 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,044,496
Issue Date: May 16, 2006
Application No. 10/645,666
Filed: August 22, 2003
Attorney Docket No. 22063-00002-US1

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed November 17, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 16, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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.

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: WILLIAM G. SYKES
3669 SEA GULL BLUFF DRIVE
VIRGINIA BEACH, VA 23455

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JUN 13 2011

OFFICE OF PETITIONS

David Chemelewski
205 Ashford Court
Noblesville IN 46060

In re Patent No. 7,049,980
Issue Date: May 23, 2006
Application No. 10/646,044
Filed: August 22, 2003
Attorney Docket No. TKG3971

Letter

This is a letter regarding your request to reinstate your patent filed May 4, 2011.

Enclosed please find a copy of a petition to reinstate your patent under 37 CFR 1.378(c). The petition should be accompanied by the three and half (3.5) year maintenance fee of $980.00, unless patentee qualifies for small entity than a maintenance fee of $490.00 should be submitted. In addition, the petition should also include a surcharge fee of $1,640.00. A petition and the appropriate fees must be submitted within two years of the expiration of the maintenance fee (before midnight on May 23, 2012) for consideration under 37 CFR 1.378(c).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/66

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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David Chemelewski
205 Ashford Court
Noblesville IN 46060

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OFFICE OF PETITIONS

In re Patent No. 7,049,980	:	
Issue Date: 05/23/2006	:	
Application No. 10/646,044	:	DECISION ON PETITION
Filed: 08/22/2003	:	
Attorney Docket No. TKG3971	:	

This is in response to the communication submitted on October 17, 2011 (certificate of mailing dated September 22, 2011), which is being treated as a petition under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued May 23, 2006. The grace period for paying the 3.5-year maintenance fee expired on May 24, 2010.

This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). The Office acknowledges payment of the maintenance fee and surcharge after expiration on September 22, 2011. Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 030244	Patent Number: 7,660,282
Filing Date (or 371(b) or (f) Date): 08-22-2003	Issue Date: 02-09-2010
First Named Inventor: SANDIP SARKAR	
Title: CONGESTION CONTROL IN A WIRELESS DATA NETWORK	

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 07-27-2010
Name (Print/Typed) Charles E. Eggers	Registration Number 56343

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 09/13/2010

Applicant	: Sandip Sarkar	: DECISION ON REQUEST FOR
Patent Number	: 7660282	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/646,242	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **638** 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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500 W.MADISON STREET
SUITE 3800
CHICAGO IL 60661

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Mark Smolenski et al	:	
Application No. 10/646,323	:	DECISION ON PETITION
Filed: August 22, 2003	:	
Attorney Docket No. 00601-0044US	:	
	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed May 27, 2010, to revive the above-identified application.

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 failure to timely file a proper reply to the final Office action mailed October 4, 2007.

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).

With respect to item (3) above: 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 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In the instant case, petitioner has failed to provide adequate evidence that the delay was unavoidable.

Petitioner states that "On October 23, 2007, an in-person interview was conducted with the undersigned and Examiner Rodriguez. Petitioner further states that "On December 10, 2007, an Advisory Action was mailed, identifying the status of all pending claims, and indicating that the November 7, 2007 Amendment Under 37 CFR 1.116 "will not be entered" for purposes of appeal. It is further indicated that the proposed amendment "raise[s] new issues that would require further reconsideration and/or search."

Petitioner also states that "Based upon this understanding, the undersigned called the Examiner to clarify why the Examiner had changed from her position at the interview and decided not to allow the application."

The Office is in receipt of the declaration by John S. Mortimer submitted with the petition on May 27, 2010. However, petitioner is reminded that 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 (See 37 CFR 1.2).

Further, The abandonment of an application subject to a final Office action is not "unavoidable" within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz Pat. Office at 89 (response to comment 66).

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). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee pursuant to 37 CFR 1.17(m).

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
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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Mark Smolenski et al	:	
Application No. 10/646,323	:	DECISION ON PETITION
Filed: August 22, 2003	:	
Attorney Docket No. 00601-0044US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 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 an RCE and 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 October 4, 2007 (an advisory action was mailed on December 10, 2007), 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 3677 for appropriate action by the Examiner in the normal course of business on the reply received October 5, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK NY 10112

MAILED
JUL 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,285,541	:	
Issued: October 23, 2007	:	
Application No. 10/646,391	:	ON PETITION
Filed: August 21, 2003	:	
Attorney Docket No. 81868-A/JPW/GJG/ML	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 14, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Additionally, petitioner has submitted an unnecessary $130.00 surcharge fee. This amount will be refunded to petitioner via treasury check in due course.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,230,689	2007-06-12	10/646,745	2003-08-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Stephen F. K. Yee, Esq./	Date (YYYY-MM-DD)	2011-08-05
Name	Stephen F. K. Yee	Registration Number	27173

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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In re Patent No. 7230689
Issue Date: June 12,2007
Application No. 10646745
Filed: August 25,2003
Attorney Docket No. API-101

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Ohmi et al.	:	DECISION ON PETITION
Application No. 10/646,855	:	TO WITHDRAW
Filed: August 21, 2003	:	FROM RECORD
Attorney Docket No. 8075-1055-1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2011.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed via Customer Number however the request does not designate a Customer Number to be withdrawn by. The request was signed by Liam McDowell on behalf of all the practitioners (with registration numbers) of record listed on the attached papers.

Further, the Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40(c).

The current request does not properly withdraw practitioners via Customer Number as it does not set forth all of the above certifications. Therefore, the request cannot be approved at this time. Any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed and provide all of the above listed certifications pursuant to 37 CFR 10.40(c).

There are no outstanding Office actions that require a reply from the applicant.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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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DONALD N. HALGREN
35 CENTRAL ST.
MANCHESTER MA 01944

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,205,021	:	
Issue Date: April 17, 2007	:	
Application No. 10/646,945	:	ON PETITION
Filed: August 22, 2003	:	
Attorney Docket No. RJC-4	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 1, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 18, 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 maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of Jeffrey A. Dean	:	
Application No. 10/647,053	:	DECISION ON APPLICATION
Filed: August 21, 2008	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-1302001	:	

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed December 8, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(b) requesting the initial determination of patent term adjustment be corrected from 252 days to 193 days.

The petition is **granted to the extent indicated herein.**

The Office has updated the Office's PALM database to reflect the correct patent term adjustment determination, as of the date the Office issued the Notice of Abandonment, is 179 days. A copy of an updated PALM screen showing the correct determination is enclosed.

The Office issued a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on September 22, 2011, advising Applicant of a patent term adjustment to date of 252 days. In response, Applicant timely filed the instant petition with payment of the issue fee. The petition asserts the initial patent term adjustment, as of the mailing date of the Notice of Allowance, should be 193 days, which is 837 days of Office delay under 37 C.F.R. § 1.702(a) ("A Delay") reduced by 644 days of delay under 37 C.F.R. § 1.704 ("Applicant Delay").

Issue 1

The Office previously determined the total period of Office delay under 37 C.F.R. § 1.702(a) ("A Delay") is 837 days, which includes a 14-day period for delay in the issuance of an Office action on December 22, 2008.

A review of the record indicates the total period of A Delay should not include the 14-day time period.

A reply to an Office action was submitted August 8, 2008, with a petition to revive. The Office issued a decision granting the petition on October 10, 2008. The December 22, 2008 Office action was mailed less than four months after the Office granted the petition. Therefore, entry of a 14-day increase in patent term adjustment based on delay in the issuance of the December 22, 2008 Office action is unwarranted.

In view of the prior discussion, the correct total period of A Delay is 823 days.

Issue 2

The Office entered a 99-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) for delay in the submission of a reply to an Office action issued January 22, 2007.

Applicant alleges, and has established, the Office should have entered a 98-day reduction in patent term adjustment.

Issue 3

The Office issued a non-final Office action on October 5, 2007. Applicant filed a reply to the Office action and a petition to revive on August 8, 2008. The Office issued a decision granting the petition to revive on October 10, 2008.

The Office entered a 216-day reduction in patent term adjustment based on the facts set forth above. Applicant, in good faith and candor, indicates the period of abandonment was 277 days, not 216 days.

The Office has reviewed the record and agrees the period of abandonment was 277 days. In other words, the Office agrees entry of a 277-day reduction in patent term adjustment based on the prior facts, rather than a 216-day reduction in patent term adjustment, is warranted.

Issue 4

The Office entered a 71-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) for delay in the submission of a reply to an Office action issued January 19, 2010.

Applicant alleges, and has established, the Office should have entered a 70-day reduction in patent term adjustment.

Conclusion

As of the date the Office issued the Notice of Allowance:

1. The correct period of A Delay is 823 days;
2. The correct total period of Applicant Delay is 644 days; and
3. The correct patent term adjustment is 179 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

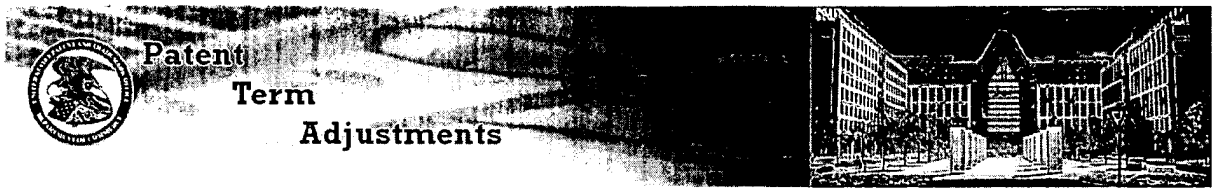
Applicant is reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



PTA/PTE Information

Application Number*: 10647053 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10647053

Application Filing Date	08/21/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	837
A Delays	837	PTO Manual Adjustment	-73
B Delays	0	Applicant Delay (APPL)	585
C Delays	0	Total PTA (days)	179

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
104	02/03/2012		P028	Adjustment of PTA Calculation by PTO		73	0
94	09/22/2011		MN/=.	Mail Notice of Allowance			0
93	09/15/2011		OAR	Office Action Review			0
92	09/15/2011		OAR	Office Action Review			0
91	09/15/2011		OAR	Office Action Review			0
90	09/15/2011		OAR	Office Action Review			0
89	09/15/2011		IREV	Issue Revision Completed			0
88	09/15/2011		DVER	Document Verification			0
87	09/15/2011		N/=.	Notice of Allowance Data Verification Completed			0
85	09/15/2011		EX.R	Reasons for Allowance			0
84	09/15/2011		EX.A	Examiner's Amendment Communication			0
83	09/15/2011		CNTA	Allowability Notice			0
86	08/18/2011		EXIE	Interview Summary - Examiner Initiated			0
82	08/08/2011		FWDX	Date Forwarded to Examiner			0
81	07/28/2011	06/09/2011	A...	Response after Non-Final Action		49	73
80	07/28/2011		XT/G	Request for Extension of Time - Granted			0
79	07/13/2011		EML_NTR	Email Notification			0
78	07/13/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
77	06/05/2011		OAR	Office Action Review			0
76	06/05/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
75	03/09/2011		ELC_RVW	Electronic Review			0
74	03/09/2011		EML_NTF	Email Notification			0
73	03/09/2011		MCTNF	Mail Non-Final Rejection			0
72	03/04/2011		CTNF	Non-Final Rejection			0
70	02/18/2011		ABN9	Disposal for a RCE / CPA / R129			0
71	02/16/2011	11/17/2010	RCEX	Request for Continued Examination (RCE)		91	60
69	02/16/2011		BRCE	Workflow - Request for RCE - Begin			0
68	02/15/2011		EML_NTR	Email Notification			0
67	02/15/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
66	02/10/2011		CTAV	Advisory Action (PTOL-303)			0
65	01/20/2011		FWDX	Date Forwarded to Examiner			0
64	01/18/2011		A.NE	Amendment after Final Rejection			0
63	01/18/2011		XT/G	Request for Extension of Time - Granted			0
62	08/20/2010		ELC_RVW	Electronic Review			0
61	08/17/2010		EML_NTF	Email Notification			0
60	08/17/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
59	08/13/2010		CTFR	Final Rejection			0
58	06/23/2010		FWDX	Date Forwarded to Examiner			0
57	06/17/2010	04/19/2010	A...	Response after Non-Final Action		59	53
56	06/17/2010		XT/G	Request for Extension of Time - Granted			0
55	01/19/2010		ELC_RVW	Electronic Review			0
54	01/19/2010		EML_NTF	Email Notification			0
53	01/19/2010		MCTNF	Mail Non-Final Rejection			0
52	01/14/2010		CTNF	Non-Final Rejection			0
51	11/16/2009		FWDX	Date Forwarded to Examiner			0
49	11/16/2009		FWDX	Date Forwarded to Examiner			0
47	11/16/2009		ABN9	Disposal for a RCE / CPA / R129			0
50	11/13/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
48	11/13/2009		RCEX	Request for Continued Examination (RCE)			0
46	11/13/2009		BRCE	Workflow - Request for RCE - Begin			0
45	09/30/2009		ELC_RVW	Electronic Review			0
44	09/30/2009		EML_NTF	Email Notification			0
43	09/30/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
42	09/28/2009		CTFR	Final Rejection			0
41	07/20/2009		FWDX	Date Forwarded to Examiner			0
40	06/01/2009	03/22/2009	A...	Response after Non-Final Action		71	36

39	06/01/2009		XT/G	Request for Extension of Time - Granted			0
38	12/22/2008		ELC_RVW	Electronic Review			0
37	12/22/2008		EML_NTF	Email Notification			0
36	12/22/2008	12/08/2008	MCTNF	Mail Non-Final Rejection	14		32
35	12/17/2008		CTNF	Non-Final Rejection			0
33	11/04/2008		FWDX	Date Forwarded to Examiner			0
31	10/16/2008		EML_NTR	Email Notification			0
30	10/10/2008		MPREV	Mail-Petition to Revive Application - Granted			0
29	10/09/2008		PREV	Petition to Revive Application - Granted			0
34	08/08/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
32	08/08/2008	01/05/2008	A...	Response after Non-Final Action		216	25
28	08/08/2008		PET.	Petition Entered			0
27	05/22/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
26	05/14/2008		C.AD	Correspondence Address Change			0
25	10/05/2007		MCTNF	Mail Non-Final Rejection			0
24	10/01/2007		CTNF	Non-Final Rejection			0
22	08/06/2007		FWDX	Date Forwarded to Examiner			0
21	07/30/2007	04/22/2007	A...	Response after Non-Final Action		99	17
20	07/30/2007		XT/G	Request for Extension of Time - Granted			0
19	05/31/2007		DOCK	Case Docketed to Examiner in GAU			0
18	01/25/2007		DOCK	Case Docketed to Examiner in GAU			0
17	01/22/2007	10/21/2004	MCTNF	Mail Non-Final Rejection	823		0.5
16	01/11/2007		CTNF	Non-Final Rejection			0
14	11/17/2006		DOCK	Case Docketed to Examiner in GAU			0
13	03/21/2006		DOCK	Case Docketed to Examiner in GAU			0
12	06/08/2005		DOCK	Case Docketed to Examiner in GAU			0
11	10/25/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
9	10/25/2004		DOCK	Case Docketed to Examiner in GAU			0
8	02/24/2004		OIPE	Application Dispatched from OIPE			0
7	02/24/2004		COMP	Application Is Now Complete			0
15	11/24/2003		IDSC	Information Disclosure Statement considered			0
10.7	11/24/2003		M844	Information Disclosure Statement (IDS) Filed			0
10	11/24/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
4	11/07/2003		CLSS	CASE CLASSIFIED BY OIPE			0
3	11/07/2003		L194	Cleared by OIPE CSR			0
2	09/09/2003		SCAN	IFW Scan & PACR Auto Security Review			0
5	08/21/2003		NPRQ	PGPubs nonPub Request			0
1	08/21/2003		IEXX	Initial Exam Team nn			0
0.5	08/21/2003		EFILE	Filing date			0

Export to: Excel

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Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,555,428	:	DECISION ON REQUEST
Franz et al.	:	FOR
Issue Date: 06/30/2009	:	RECONSIDERATION OF
Application No. 10/647,203	:	PATENT TERM ADJUSTMENT
Filed: 08/21/2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
16113-1230001 / GP-038-00	:	CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION DISMISSING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705, filed on January 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 nine hundred fifteen (915) days. For the reasons stated below, the petition is treated as 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 fourteen (914) 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 fourteen (914) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 22, 2006, and ends on December 25, 2007, the day before the RCE was filed, and is 491 (not 492) days. See 35 U.S.C. 154(b)(1)(B)(i). Considering the overlapping period of 151 days, from August 22, 2006, to January 19, 2007, the date the first Office action was mailed, the patent term adjustment is 914 days (820 days of Office delay + 491 years of over three years delay - 151 days overlap - 246 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.

No fee is due with the subject request for reconsideration.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred fourteen (914)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,555,428 B1

DATED : **Jun. 30, 2009** **DRAFT**

INVENTOR(S) : Franz 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 574 days.

Delete the phrase "by 574 days" and insert – by 914 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 7163503
Issue Date: January 16,2007
Application No. 10647252
Filed: August 26,2003
Attorney Docket No. 1011.39033VP2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7,163,503	2007-01-16	10/647,252	2003-08-26	1011.39033VP2

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	/Ronald J. Shore/	Date (YYYY-MM-DD)	2011-09-23
Name	Ronald J. Shore	Registration Number	28577

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 1, 2010

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10647496 Patent No.: 7118203

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: The proposed changes present a change in scope

SPE

Art Unit

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COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON IN 47402

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Patent No. 7,722,657	:	DECISION ON REQUEST FOR
Hartley	:	RECONSIDERATION OF
Issue Date: May 25, 2010	:	PATENT TERM ADJUSTMENT AND
Application No. 10/647,642	:	NOTICE OF INTENT TO ISSUE
Filed: August 25, 2003	:	CERTIFICATE OF CORRECTION
Attorney Docket No. PA-5343-RFB:		

This is a decision on the petition filed on July 26, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, four hundred and sixty-six (1,466) 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 **one thousand, five hundred and eight (1,508) days.**

An additional adjustment to the patent term of 42 days is being entered pursuant to 37 CFR 1.702(a)(3) and 37 CFR 1.703(a)(5). It is noted that a decision by the Board of Patent Appeals and Interferences was mailed on September 1, 2009; a notice of allowance was not mailed until February 12, 2010, four months and 42 days after the decision was mailed. It is, is therefore, appropriate to enter and adjustment to the patent term of 42 days with said period beginning January 2, 2010, and ending February 12, 2010.

A review of the application file history reveals that the period of adjustment of 108 days entered for the filing of an examiner's answer on May 29, 2008, is unwarranted. The record

reveals that the appeal brief filed October 11, 2007, was determined to be non-compliant with 37 CFR 41.37. An appeal brief was filed March 14, 2008, that was determined to be compliant with 37 CFR 41.37. The period of adjustment pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(4), if any, is therefore properly calculated from the day after the date the four months from the date the appeal brief in compliance with 37 CFR 41.37 was filed, July 15, 2008. The examiner's answer was mailed May 29, 2008. Accordingly, no period of adjustment is warranted under 37 CFR 1.703(a)(4) in this instance. The period of adjustment of 108 is being removed accordingly.

In view thereof, the revised patent term adjustment is 1,508 days (465 days of "B" delay + 241 days of "A" delay + 904 days of "C" delay - 0 days of overlap - 102 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 § 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred and eight (1,508) 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 : 7,722,657 B2

DATED : May 25, 2010

INVENTOR(S) : Hartley

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 (1023) days

Delete the phrase "by 1023 days" and insert – by 1023 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED
DEC 27 2011
OFFICE OF PETITIONS

In re Application of Glozman et al. Application No. 10/647,796 Filed: August 26, 2003 Attorney Docket No. 32965 Title: PRE-OPERATIVE MEDICAL PLANNING SYSTEM AND METHOD FOR USE THEREOF	DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed November 24, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed August 27, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 28, 2010. A notice of abandonment was mailed on March 30, 2011.

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R.

§ 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

On November 24, 2011, Petitioner filed a Request for Continued Examination (RCE) along with the associated fee, an amendment, and a statement that is being construed as the proper statement of unintentional delay. The concurrently filed amendment has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on November 24, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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)
7170605	2007-01-30	10/647,855	2003-08-25	6004P2659

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey D. Moy/	Date (YYYY-MM-DD)	2012-01-25
Name	Jeffrey D. Moy	Registration Number	39307

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 7170605
Issue Date: January 30,2007
Application No. 10647855
Filed: August 25,2003
Attorney Docket No. 6004P2659

:
: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.

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CHARLES E.BAXLEY, ESQ.
90 JOHN STREET
3RD FLOOR
NEW YORK, NY 10038

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Patent No. 6,875,159 :
Issue Date: April 5, 2005 :
Application No. 10/647,876 : ON PETITION
Filed: August 21, 2003 :
Attorney Docket No. 148844 B (4079 RK) :

This is a decision on the petition under 37 CFR 1.378(c), filed July 23, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 5, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE CA 94086

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Carter, et al. :
Application No. 10/648,630 : ON APPLICATION FOR
Filed: August 25, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. EXIT-00101 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 § C.F.R. 1.705), filed April 28, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand two hundred ten (1210) days, not four hundred ninety-two (492) 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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office 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, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 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.

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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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED
AUG 13 2010
OFFICE OF PETITIONS

In re Application of :
Brodbeck et al. :
Application No. 10/648,759 : ON PETITION
Filed: August 25, 2003 :
Atty Docket No. ARC 2882 N1 :
(3139-6225.1U :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed September 15, 2008.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned for failure to file a proper reply to the final Office action mailed December 13, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A reply was filed on February 13, 2008. However, it was determined not to place the application in condition for allowance (See Advisory Action sent June 6, 2008). No further reply filed and no extension of time obtained, the application became abandoned effective March 14, 2008. A courtesy Notice of Abandonment was sent on August 12, 2008.

In response, assignee Durect Corporation, filed the instant petition, requesting revival pursuant to 37 CFR 1.137(a). Accompanying this petition was a statement under 37 CFR 3.73(b) and revocation of power of attorney with a new power of attorney. Petitioner maintains that the required showing of unavoidable delay is met because (A) a docketing error is the cause of the delay at issue, (B) docketing of responses due in files prosecuted by the undersigned before the USPTO is a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance and (C) the employee entrusted with the docketing function is highly trained and experienced such that reliance on the performance of that employee represents the exercise of due care. Further, petitioner argues that the delay was discovered the day before the filing date of this petition, so the entire period of the delay was unintentional.

As agreed by petitioner, the unavoidable delay standard:

> 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 unforeseen fault or imperfection of these agencies and instrumentalies, there occurs a failure, it may properly be said to be unavoidable, all the other conditions of good faith and promptness in its ratification being present.

Under this standard, a prudent and careful man in ensuring the timely filing of a response to an Office action may rely on a worthy and reliable employee to perform a clerical function. Specifically, a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;
(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Thus, in order to meet the burden of showing that the delay was unavoidable based on docketing error, applicant must specify the error that was the cause of the delay at issue; specify the business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, with respect to the error that occurred; and specify the employee and show that that employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. Here, applicant generally describes business routine, does not specify error and how it occurred, and does not specify docketing specialist who committed the error. As such, it cannot be concluded that petitioner has met his burden of establishing that the delay was unavoidable within the meaning of 1.137(a).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

Patents
Durect Corporation
2 Results Way
Cupertino CA 94402

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of :
Brodbeck et al. :
Application No. 10/648,759 : ON PETITION
Filed: August 25, 2003 :
Atty Docket No. DURE-333 CON :

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. §1.137(b) filed September 28, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned effective March 14, 2008 for failure to file a proper reply to the final Office action mailed December 13, 2007. A courtesy Notice of Abandonment was sent on August 12, 2008. By decision mailed August 13, 2010, the petition to revive pursuant to 37 CFR 1.137(a) was dismissed for failure to meet his burden of establishing that the delay was unavoidable within the meaning of 1.137(a).

This renewed petition is based on unintentional delay. The requirements of 37 CFR 1.137(b) have been met. The petition includes the required statement of unintentional delay and payment of the petition fee. The required reply in the form of a request for continued examination (RCE and RCE fee) and amendment was previously filed on September 15, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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JAN 31 2011
OFFICE OF PETITIONS

In re Application of Pulnev et al. Application No. 10/648775 Filing or 371(c) Date: 08/25/2003 Pat. Num.: 7160323 Issue Date: 01/09/2007 Attorney Docket No. 792-82 PCT/US/CON III	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the "Petition to Accept Unintentionally Delayed Under 35 U.S.C. § 120," to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to the prior-filed application set forth in the Supplemental Preliminary Amendment filed in the application on May 10, 2004, and printed n the face of the patent, as corrected by the Request for Certificate of Correction filed with the present petition.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed January 28, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim 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.

As the 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 application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Office records reveal that the present patent was corrected as requested in the Certificate of Correction filed with the present petition, on November 2, 2010.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232.

This application is being referred to the files repository.

Christopher Bottorff
Supervisor
Office of Petitions

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TECHLAW LLP
10755 SCRIPPS POWAY PARKWAY, SUITE 465
SAN DIEGO CA 92131

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OCT 28 2011
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In re Patent No. 7,270,956 :
Issued: September 18, 2007 :
Application No. 10/648,945 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No: **2002-525-2** :

This is a decision regarding the request for acceptance of a fee deficiency submission and loss of small entity status filed October 11, 2011 under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

The fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Bell, Boyd & Lloyd LLC
P.O Box 1135
Chicago IL 60690-1135

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AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Baerlocher	:	
Application No. 10/649,091	:	ON APPLICATION FOR
Filed: August 27, 2003	:	PATENT TERM ADJUSTMENT
Docket No. 0112300-1411	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed June 30, 2010.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **three hundred ninety (390) days**. A copy of the updated PALM 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 is 512 days. On June 30, 2010, applicant submitted the instant petition. Applicant discloses that he believes that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated in light of the information disclosure statement, filed December 4, 2008.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed enter a reduction for an Information Disclosure Statement filed on December 4, 2008. After applicant filed a reply on August 4, 2008 to a non-final Office action, applicant submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on December 4, 2008. The record does not support a conclusion that the examiner expressly requested

the filing of the IDS. Further, a review of the IDS, filed December 4, 2008, reveals that applicant did not include a statement under 37 CFR 1.704(d).[1] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 122 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, August 5, 2008, and ending on the date that the IDS was filed, December 4, 2008. Accordingly, a period of reduction of 122 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **three hundred ninety (390) days** (640 days of Office delay - 250 days of applicant delay).

The Office acknowledges receipt of the required $200.00 fee under 37 CFR 1.18(e) is required.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

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.

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

CC: K&L GATES LLP
P.O. BOX 1135
CHICAGO, IL 60690

Day : Tuesday
Date: 8/17/2010

PALM INTRANET

Time: 08:17:49

PTA Calculations for Application: 10/649091			
Application Filing Date:	08/27/2003	PTO Delay (PTO):	640
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	128
Post-Issue Petitions:	0	Total PTA (days):	390
PTO Delay Adjustment:	-122		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
105	08/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		122	
95	04/09/2010	ISSUE REVISION COMPLETED			
94	04/09/2010	DOCUMENT VERIFICATION			
93	04/09/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
92	04/09/2010	EXAMINER'S AMENDMENT COMMUNICATION			
91	04/08/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
90	04/09/2010	NOTICE OF ALLOWABILITY			
85	03/23/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
84	03/16/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
83	02/12/2010	MAIL APPEALS CONF. PROCEED TO BPAI			
82	02/05/2010	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
81	12/23/2009	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
80	12/23/2009	NOTICE OF APPEAL FILED			
79	12/24/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
78	12/16/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
77	09/28/2009	MAIL FINAL REJECTION (PTOL - 326)			
76	09/25/2009	FINAL REJECTION			
73	07/24/2009	DATE FORWARDED TO EXAMINER			
72	06/10/2009	RESPONSE TO ELECTION / RESTRICTION FILED			
71	05/27/2009	MAIL RESTRICTION REQUIREMENT			

70	05/26/2009	REQUIREMENT FOR RESTRICTION / ELECTION			
69	03/09/2009	DATE FORWARDED TO EXAMINER			
68	01/30/2009	RESPONSE AFTER NON-FINAL ACTION			
67	12/24/2008	MAIL NON-FINAL REJECTION	20		59
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65	12/04/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	12/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	10/03/2008	DATE FORWARDED TO EXAMINER			
59	08/04/2008	RESPONSE AFTER NON-FINAL ACTION			
58	07/07/2008	MAIL NON-FINAL REJECTION			
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52	06/16/2008	DATE FORWARDED TO EXAMINER			
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49	03/26/2008	MAIL FINAL REJECTION (PTOL - 326)			
48	03/17/2008	FINAL REJECTION			
47	02/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	02/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	01/09/2008	DATE FORWARDED TO EXAMINER			
41	12/18/2007	RESPONSE AFTER NON-FINAL ACTION		61	39
40	12/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	07/18/2007	MAIL NON-FINAL REJECTION			
38	07/16/2007	NON-FINAL REJECTION			
37	05/18/2007	DATE FORWARDED TO EXAMINER			
36	05/16/2007	RESPONSE AFTER NON-FINAL ACTION		17	31
35	05/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	05/03/2007	LETTER REQUESTING INTERVIEW WITH EXAMINER			
33	05/09/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
32	03/04/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	01/29/2007	MAIL NON-FINAL REJECTION	65		26
30	01/22/2007	NON-FINAL REJECTION			

29	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	07/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	07/27/2006	DATE FORWARDED TO EXAMINER			
26	07/25/2006	RESPONSE AFTER NON-FINAL ACTION			
25.7	07/25/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
25	07/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	05/05/2006	MAIL NON-FINAL REJECTION	555		-1
23	05/01/2006	NON-FINAL REJECTION			
22	06/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	04/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	09/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	02/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	06/17/2004	REFERENCE CAPTURE ON IDS			
17.7	06/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/12/2004	REFERENCE CAPTURE ON IDS			
15.7	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	01/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	11/18/2003	APPLICATION RETURN FROM OIPE			
11	11/19/2003	APPLICATION IS NOW COMPLETE			
10	11/19/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
9	11/18/2003	APPLICATION RETURN TO OIPE			
8	11/18/2003	APPLICATION RETURN FROM OIPE			
7	11/18/2003	APPLICATION RETURN TO OIPE			
6	11/18/2003	APPLICATION DISPATCHED FROM OIPE			
5	11/19/2003	APPLICATION IS NOW COMPLETE			
4	11/10/2003	CASE CLASSIFIED BY OIPE			
3	11/10/2003	CLEARED BY OIPE CSR			

2	10/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/27/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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Bell, Boyd & Lloyd LLC
P.O Box 1135
Chicago IL 60690-1135

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent of Baerlocher	:	
Patent No. 7,806,760	:	
Issue Date: October 5, 2010	:	DECISION ON REQUEST
Application No. 10/649,091	:	FOR RECONSIDERATION OF
Filed: August 27, 2003	:	PATENT TERM ADJUSTMENT
Docket No.:0112300-1411	:	

This is a decision on the petition filed on December 6, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred ninety-five (1695) days.

The petition under 37 CFR 1.705(d) is **granted to the extent indicated herein.**

Patentee states that the Office delay of 1965 days appear to be overstated, resulting in the total PTA being longer than appropriate.

The period of Office delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 640 days.

The period of Office delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 1304 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, no RCE was filed. The maximum period of B Delay in this case is 1500 days, which is the number of days beginning August 28, 2006, the day after the date three years after the application's filing date, and ending October 5, 2010, the day the patent issued. Eighty five days are subtracted from the maximum period of B delay because they are overlapping with A Delay days ((November 26, 2006 - January 29, 2007) and (December 5, 2008 - December 24, 2008).

As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." A Notice of Appeal was filed on December 23, 2009 and the Office mailed a Notice of Allowance on April 12, 2010. Excluding the 111 days consumed by appellate review (beginning December 23, 2009, the date the Notice of Appeal was filed, and ending April 12, 2010, the day the Notice of Allowance was mailed) results in a period of B delay of 1304 days (1500 - 85 - 111).

The Office concurs that the period of Applicant delay is 250 days.

In light of the above, the patent term adjustment should be 1694 days, which is the sum of 640 days of A delay and 1304 days of B delay, reduced by 250 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 § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by one thousand six hundred ninety-four (1694)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: copy of draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,806,760 B2

DATED : **October 5, 2010** **DRAFT**

INVENTOR(S) : Baerlocher

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 1715 days

Delete the phrase "by 1715 days" and insert – by 1694 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101123

DATE : November 23, 2010

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7,102,177

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:

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/14/2011

TO SPE OF : ART UNIT 1772 Bullock In Suk (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/649283 Patent No.: 7424437

CofC mailroom date: 4/4/2011

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

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____ SPE _____ Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/07/11

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10649661 Patent No.: 7769253

CofC mailroom date: 01/19/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[redacted]

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.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: The Request for Certificate of Correction for the purpose of correcting typographical error in claim 34, no new matters added.

/UYEN-CHAU N. LE/ — SPE

2874 — Art Unit

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PATENT CAPITAL GROUP – CISCO
6119 MCCOMMAS
DALLAS TX 75214

MAILED

JUL 26 2011

OFFICE OF PETITIONS

In re Application of Aravind Sitaraman et al Application No. 10/650,250 Filed: August 27, 2003 Attorney Docket No. CISCO-7642 (032590-0212)	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2451 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,494	08/28/2003	Bradley T. Estes	MSDI-479/PC457.06	6987

52196 7590 08/08/2011
Medtronic, Inc (Spinal/Krieg DeVault)
710 Medtronic Parkway
Attn: Legal Patents MS: LC 340
Minneapolis, MN 55432-5604

EXAMINER
BOLES, SAMEH RAAFAT

ART UNIT	PAPER NUMBER
3775	

NOTIFICATION DATE	DELIVERY MODE
08/08/2011	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):

rs.docketingspinal@medtronic.com
medtronic_spinal_docketing@cardinal-ip.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **3-24-11**

TO SPE OF : ART UNIT **3775**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10650494** Patent No.: **7828845**

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: _____

_____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

OK TO ENTER: /S.B./

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,828,845 B2

APPLICATION NO. : 10/650,494

ISSUE DATE : November 9, 2010

INVENTOR(S) : Estes, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Column 14, Line 46, in Claim 2, delete "-dien-e)," and insert - - -diene), - -, therefor.

In Column 16, Line 41, in Claim 38, delete "-dien-e)," and insert - - -diene), - -, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Medtronic
IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,917,163	: DECISION ON REQUEST FOR
Messay Amerga	: RECONSIDERATION OF
Issue Date: March 29, 2011	: PATENT TERM ADJUSTMENT
Application No. 10/650,564	: and
Filed: August 27, 2003	: NOTICE OF INTENT TO ISSUE
Atty. Dkt. No. 020673	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d) filed March 26, 2011. Patentees request the Office to revise the patent term adjustment in the above-identified patent from eight hundred fifty-six (856) days to nine hundred eighty-seven (987) days.

The request for correction of the patent term adjustment (PTA) indicated in the patent is **GRANTED**.

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 **(987)** days.

On March 29, 2011, the application matured into U.S. Patent No. 7,917,163, with a revised patent term adjustment of 856 days. In effect, Patentees point out that the Office erred in counting both a period of reduction of 131 days associated with the granting of a petition to revive, and a period of 235 days of applicant delay for abandonment of the application for failure to respond to an Office action.

Patentees are correct. 37 C.F.R. § 1.704(c) states:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Therefore, Applicants should have been assessed delay for the period beginning on September 26, 2009 (the date the application became abandoned) to May 18, 2010 (the date the decision reviving the application was mailed), or 235 days. The period of reduction of 131 days associated with the petition to revive is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of NINE HUNDRED EIGHTY-SEVEN (987) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application 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 EIGHTY-SEVEN (987) days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,917,163 B2

DATED : **March 29, 2011** **DRAFT**

INVENTOR(S) : Amerga

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 856 days

Delete the phrase "by 856 days" and insert – by 987 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7223052
Issue Date: May 29,2007
Application No. 10651228
Filed: August 29,2003
Attorney Docket No. 0316

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 1,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 1,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7223052	2007-05-29	10651228	2003-08-29	DEV.0900

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office
● A sole patentee
○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
○ A joint patentee; all of whom are signing this e-petition
○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Daniel D. Evans/	Date (YYYY-MM-DD)	2011-08-31
Name	Daniel D. Evans		

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

VARIAN MEDICAL SYSTEMS, INC.
Attn: LEGAL DEPAERTMENT
3100 HANSEN WAY, M/S E339
PALO ALTO, CA 94304

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Patent No. **6,901,135**	:	
Issue Date: May 31, 2005	:	
Application No. 10/651,272	:	NOTICE UNDER 37 CFR 1.28
Filed: August 28, 2003	:	
Attorney Docket No. **07-019-US**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to 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
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PERKINS COIE LLP
3150 PORTER DR
PALO ALTO CA 94304

MAILED

MAR 13 2012

OFFICE OF PETITIONS

In re Patent No. 7,560,004	:	
Issued: 07/14/2009	:	
Application Number: 10/651,540	:	LETTER
Filing or 371(c) Date: 08/29/2003	:	
Attorney Docket Number: 76614-8067.US01	:	

This is a letter response to the paper filed on October 22, 2009, entitled "CORRECTING ERRORS IN SMALL ENTITY STATUS."

The Office no longer investigates or rejects original or reissue patents under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

It is noted that the person who signed the letter, registered patent practitioner Viola T. Kung, Reg. No. 41,131, is not listed an authorized user of Deposit Account No. 08-3038. Accordingly, the fee deficiency cannot be charged as requested.

A renewed request under 37 CFR 1.28(c), accompanied by payment of the fee deficiency, should be submitted in response to this letter.

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 in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood
Douglas Wood
Attorney
Office of Petitions

Cc: HOWREY LLP
2941 FAIRVIEW PARK DRIVE, BOX 7
FALLS CHURCH VA 22042

Tech Center Routing Sheet

Application # 11/871,562 Doc Code Date

Date of Request Doc Code Pet.Dec.-C of C

(if not listed)

☐ **136A**	☐ **CRFE**	☐ **NPL**
Blanket Authorization to charge fee	CRF Entered	Non Patent Literature
☐ **A..**	☐ **CTMS**	☐ **NRES**
Amendment	Misc. Office Action	Letter restarting period of response
☐ **AMSB**	☐ **DISQ**	☐ **NTC.A.NONCPL**
Amendment Submitted with CPA/RCE	Terminal Disclaimer Approval Form	Notice of Non-Compliant Amendment
☐ **ANE.I**	☐ **EXIN**	☐ **PET.DEC.TC**
Amendment After Final, Initialed by Examiner	Examiner Interview	Petition Decision Routed to TC
☐ **APDEC**	☐ **FOR**	☐ **SA**
Board of Appeals Decision	Foreign Reference	Supplemental Response or Amendment
☐ **APEA**	☐ **IIFW**	☐ **SRFW**
Examiner's Answer to Appeal Brief	File Wrapper Issue Information	File Wrapper Search Information
☐ **BIB**	☐ **N271**	☐ **SRNT**
Bibliographic Data Sheet	Response to Amendment under 312	Examiner Search Notes
☐ **CLM**	☐ **N570**	☐ **WCLM**
Claims	Accepted Change to Power of Attorney	Claim Worksheet
☐ **CLMPTO**	☐ **NFDR**	☐ **WFEE**
USPTO Prepared Claim Sheet	Formal Drawings Required	Fee Worksheet
☐ **CRFD**	☐ **NOA**	☐ **XRUSH**
CRF Defective	Notice of Allowability or Allowance	Response to a Printer Query

PTO Form 2255 (Rev. 8-2007)

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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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

MAILED
MAR 14 2012
OFFICE OF PETITIONS

In re Patent No. 8,058,243	:	
Application No. 11/871,562	:	
Filed: October 12, 2007	:	ON PETITION
Issued: November 15, 2011	:	
Attorney Docket No. MTS28USA	:	

This is a decision on the petition filed November 15, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding the above-identified patent. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/21/10

TO SPE OF : ART UNIT 3774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10651562 Patent No.: 7713297

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.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Changes are acceptable /WHM/ 8/10/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT CAPITAL GROUP
2816 LAGO VISTA LANE
ROCKWALL TX 75032

MAILED

DEC 27 2011

OFFICE OF PETITIONS

In re Patent No. 7,464,408	:	
Issued: December 9, 2008	:	
Application No. 10/651,588	:	ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No: **SCOR-00500**	:	

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed December 9, 2011. The request is being treated as a petition under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Wong Cabello Lutsch
Rutherford & Brucculeri LLP
20333 Tomball Pkwy
Suite 600
Houston TX 77070

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,623,929	:	DECISION ON REQUEST
Griffith	:	FOR
Issue Date: November 24, 2009	:	RECONSIDERATION OF
Application No. 10/651,650	:	PATENT TERM ADJUSTMENT
Filed: August 29, 2003	:	and
Atty Docket No. 896-0002US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twenty-two (722) 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 seven hundred twenty-one (721) days.

The B delay is 184 days as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on August 30, 2006, and ended on March 1, 2007, the *day before* the RCE was filed. *See* 35 U.S.C. § 154(b)(1)(B)(i). Accordingly, the patent term adjustment of 537 days is increased by 184 days to a revised patent term adjustment of 721 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred twenty-one **(721)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

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 : 7,623,929 B1

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Griffith

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 537 days

Delete the phrase "by 537 days" and insert – by 721 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Jain et al.	:	
Application No. 10/651,810	:	ON APPLICATION FOR
Filed: 10/651,810	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
030159	:	

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*[1]," filed on March 16, 2011, which is treated as an application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment is **DISMISSED** as **premature**.

On December 16, 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 809 days. On March 16, 2011, applicants submitted the subject paper[1].

In view of the filing of the RCE on March 16, 2011, and the mailing of a new Notice of Allowance on March 30, 2011, the application for patent term adjustment is dismissed as premature.

It is also noted that no fee was received with the subject petition. Petitioners are reminded that any application under

---

[1] Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).
[1] PALM records show that a Request for Continued Examination (RCE) was filed on March 16, 2011, in lieu of payment of the issue fee. The issue fee has not been paid.

37 CFR 1.705(b) **must** be accompanied by payment of the $200.00 fee set forth in § 1.18(e).

The application is referred to the Office of Data Management to await receipt of the issue and publication fees.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOGAN LOVELLS US LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

MAILED
OCT 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,175,660	:	
Issue Date: February 13, 2007	:	
Application No. 10/651,852	:	NOTICE
Filed: August 29, 2003	:	
Attorney Docket No. 28099-0004	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 27, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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. 7149823
Issue Date: December 12,2006
Application No. 10651887
Filed: August 29,2003
Attorney Docket No. 491442001200

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 16,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7149823	2006-12-12	10651887	2003-08-29	491442001200

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	/Peng Li/	Date (YYYY-MM-DD)	2011-02-16
Name	Peng Li	Registration Number	L0060

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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JUL 01 2011

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Patent No. 7,270,992	:	
Issue Date: September 18, 2007	:	
Application No. 10/652,252	:	NOTICE
Filed: September 2, 2003	:	
Attorney Docket No. 0042-0485P	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on June 2, 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.

The present communication is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Kendal M. Sheets 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. While a courtesy copy of this communication is being mailed, the appropriate power of attorney or authorization of agent must be submitted if Mr. Sheets desires to receive future correspondence regarding this patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KENDAL M. SHEETS
CPA GLOBAL
2318 MILL ROAD, SUITE 12 FLOOR
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/11

TO SPE OF : ART UNIT 2476

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/652,273 Patent No.: 7830870

CofC mailroom date: 12/20/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: ok to enter

Ayaz Sheikh

/Ayaz Sheikh/ 2476

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~9-15-11~~ ~~9-21-11~~ 12/22/11 Paper No.: _____

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/652378 Patent No.: 7832164

CofC mailroom date: 9-16-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COFC be approved

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

E Yang
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: The C of C filed 12/22/2011 is approved.

SPE

1623
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
APR 25 2011
OFFICE OF PETITIONS

BELL BOYD & LLOYD LLC
PO BOX 1135
CHICAGO IL 60690-1135

In re	: DECISION ON APPLICATION
Gerrard, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/652,457	: AND NOTICE OF INTENT
Filed: August 28, 2003	: TO ISSUE
Patent No. 7,867,074	: CERTIFICATE OF CORRECTION
Issued: January 11, 2011	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed March 10, 2011. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred sixty-nine (869) days to nine hundred forty-six (946) days.

The application for patent term adjustment is **GRANTED**.

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 forty-six (946) days**.

On June 10, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the instant application. The Notice stated that the patent term adjustment (PTA) to date was six hundred eighty-four (684) days. On September 3, 2010, Applicants filed a "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE", which was a candor letter indicating that the 684 days of patent term accorded was thought to be longer than appropriate. On January 11, 2011, the application issued into Patent No. 7,867,074, with a patent term adjustment of eight hundred sixty-nine (869) days.

A review of the file reveals that Applicants were assessed delay of one hundred twenty (120) days for filing the "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE" on September 3, 2010. Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Likewise, the submission of a candor letter will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, zero (0) days should have been assessed for this filing.

Applicants also point out that they should have been assessed additional days of Applicant delay pursuant to 37 CFR 1.704(c)(8). Applicants filed an RCE on September 14, 2009. Subsequently, Applicants filed an IDS on October 27, 2009, and were not assessed any days of Applicant delay. However, pursuant to 37 CFR 1.704(c)(8), forty-three (43) days of Applicant delay should have been assessed for this supplemental filing.

In view thereof, the correct determination of patent term adjustment is nine hundred forty-six (946) days (1103 days of PTO delay, reduced by 157 days of applicant delay).

Receipt of the $200 fee is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **nine hundred forty-six (946) days.**

The address given on the petition differs from the correspondence address of record. A courtesy copy of this decision is being mailed to the address on the petition.

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: draft Certificate of Correction

cc: K&L Gates LLP
PO Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,867,074 B2

DATED : **January 11, 2011**

INVENTOR(S) : Gerrard 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 869 days.

Delete the phrase "by 869 days" and insert – by 946 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MARK A. WOLFE
1076 TAMBERWOOD COURT
WOODBURY MN 55125

MAILED
AUG 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,302,638 :
Issued: November 27, 2007 :
Application No.: 10/652,670 : NOTICE
Filed: August 29, 2003 :
Attorney Docket No: **295** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

MAILED
DEC 23 2010
OFFICE OF PETITIONS

In re Patent No. 7,771,736	:	DECISION ON REQUEST
William Abraham	:	FOR
Issue Date: 08/10/2010	:	RECONSIDERATION OF
Application No. 10/652,684	:	PATENT TERM ADJUSTMENT
Filed: 08/29/2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
39-21(53060)B (MTC 6878.1	:	CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705 filed on petition filed on October 8, 2010, which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand six hundred eleven (1611) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand six hundred seventy-two (1672) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred seventy-two (1672) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on August 30, 2006, the day after the date that is three years after the date on which the application was filed under

35 U.S.C. 111(a) and ending on August 10, 2010, the date the application issued as a patent, or 1442 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 November 6, 2006, a notice of appeal was filed. On March 25, 2010, a decision by the Board of Appeals and Interferences was mailed, 1236 days after the date the notice of appeal was filed, a notice of allowance was mailed. Accordingly, the excluded period for appeal is 1236 days, and the "B" delay period is 206 (1442 - 1236) days.

Patentee submits that a period of reduction of 61 days for applicant delay should be entered for the filing of an Appeal Brief on May 14, 2007, three months and 61 days after the issuance of the Appeal Conference Decision on March 14, 2007. An Appeal Conference Decision, however, is not an Office action or notice within the meaning of 37 CFR 1.704(b). Likewise, the filing of an Appeal Brief is not a reply to an Office action or notice within the meaning of § 1.704(b). Accordingly, no reduction is due in connection with the filing of the Appeal Brief of May 14, 2007.

The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The patent term adjustment at the time of issuance of the patent is 1672 (319 days of Office delay + 206 days of over three years delay + 1236 days of successful appellate review delay - 89 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director

under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand six hundred seventy-two **(1672)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,771,736 B2

DATED : **Aug. 10, 2010** **DRAFT**

INVENTOR(S) : Abraham

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 1466 days.

Delete the phrase "by 1466 days" and insert – by 1672 days--

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INTELLECTUAL PROPERTY DEPT.
DEWITT ROSS & STEVENS SC
2 EAST MIFFLIN STREET
SUITE 600
MADISON WI 53703-2865

MAILED
AUG 03 2010
OFFICE OF PETITIONS

In re Application of	:	
Donald J. MISCHO	:	
Application No. 10/652,836	:	DECISION ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No. 11501.011	:	

This is a decision on the petition filed April 22, 2010 in 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 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 unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620.00. 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 addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2 EAST MIFFLIN STREET
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MADISON WI 53703-2865

MAILED
AUG 3 1 2010
OFFICE OF PETITIONS

In re Application of	:	
Donald J. MISCHO	:	
Application No. 10/652,836	:	DECISION ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No. 11501.011	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 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 Notice to File Corrected Application Papers mailed March 03, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 30, 2008. The Notice of Abandonment was mailed September 04, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Corrected Application Papers of March 03, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

This application is being referred to the Office Patent Application Processing for further processing.

Michelle R. Eason
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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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

MAILED
JAN 12 2011
OFFICE OF PETITIONS

In re Patent of Zlotnick et al. :
Patent No. 7,785,608 :
Issued: August 31, 2010 :
Application No. 10/652,870 : ON APPLICATION FOR
Filed: September 2, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. AM100586 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed October 28, 2010. The petition will be treated under 37 CFR § 1.705(d). Patentees request that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty-nine (1369) days.

The petition is **DISMISSED**.

In calculating the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"), patentees indicate the period of delay ended on March 19, 2009, the date a Request for Continued Examination ("RCE") was filed.

However, per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Per the language of 37 CFR 1.703(b)(1):

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and

ending on the date a patent was issued, but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

As stated above, the date on which a RCE was filed is not included in the B Delay period. The maximum B Delay in this case is 928 days, which is the number of days beginning on September 3, 2006, the day after the date three years after application's the filing date, and ending on March 18, 2009, the day *before* the date the RCE was filed.

The patent term adjustment remains **one thousand three hundred sixty-eight (1368) days**, which is the sum of 974 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 928 days of maximum B Delay, reduced by 299 days of overlapping A Delay and B Delay, and reduced by 235 days of Applicant 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 fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

CC: BRIAN M. GUMMOW
ROPES & GRAY LLP
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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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DR. STEVEN SHUYONG XIAO
3455 ISABELLE, LOCAL E
BROSSARD J4Y 2R2 CA CANADA

MAILED

DEC 08 2011

OFFICE OF PETITIONS

In re Patent No. 6,891,191	:	
Issue Date: May 10, 2005	:	
Application No. 10/652,959	:	DECISION ON PETITION
Filed: September 2, 2003	:	UNDER 37 CFR 1.378(b)
Title: ORGANIC SEMICONDUCTOR	:	
DEVICES AND METHODS OF	:	
FABRICATION		
Patentee(s): Xiao et al.		

This is a decision on the petition under 37 CFR 1.378(b), filed October 3, 2011, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued May 10, 2005. The 3.5-year maintenance fee could have been paid from May 10, 2008, through November 10, 2008, or with a surcharge during the period from November 11, 2008 through May 10, 2009. Accordingly, the patent expired at midnight May 10, 2009, for failure to timely submit the 3.5-year maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

This petition lacks item (1) above.

As to item (1), petitioner states that the instant patent was recently bought from the bankrupted company, Organic Vision, Inc, which caused the delay in payment of the 7.5-year maintenance fee to be unavoidable.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment until the petition was filed.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issue of the patent being recently purchased is immaterial in the absence of a showing that these, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: STEVEN SHUYONG XIAO
2555 NANTEL
ST-LAURENT, QUEBEC H4M 1K6
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DR. STEVEN SHUYONG XIAO
3455 ISABELLE, LOCAL E
BROSSARD J4Y 2R2 CA CANADA

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APR 16 2012

OFFICE OF PETITIONS

In re Patent No. 6,891,191	:	
Issue Date: May 10, 2005	:	
Application No. 10/652,959	:	DECISION ON PETITION
Filed: September 2, 2003	:	UNDER 37 CFR 1.378(b)
Title: ORGANIC SEMICONDUCTOR	:	
DEVICES AND METHODS OF	:	
FABRICATION		
Patentee(s): Xiao et al.		

This is a decision on the renewed petition under 37 CFR 1.378(b), filed January 4, 2012, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DENIED**[i].

BACKGROUND

The patent issued May 10, 2005. The 3.5-year maintenance fee could have been paid from May 10, 2008, through November 10, 2008, or with a surcharge during the period from November 11, 2008 through May 10, 2009. Accordingly, the patent expired at midnight May 10, 2009, for failure to timely submit the first maintenance fee.

On October 3, 2011, petitioner Steven Shuyong Xiao (Xiao) filed a first petition to accept an unavoidably delayed payment of the maintenance fee under 37 C.F.R. 1.378(b). Non-payment of the maintenance fee was allegedly unavoidable due to the recent purchase of the patent from the bankrupted company, Organic Vision, Inc.

This petition was dismissed on December 8, 2011 and required that any petition for reconsideration explain with a documented showing the steps in place by patentee(s) to ensure that the fee would be timely paid, and how the system failed in this instance.

The request for reconsideration, filed January 4, 2012, attempted to address this request through the presentation of a Recordation of Assignment from Xiao.

The instant petition from Xiao explains, "As you can see from the enclosed Recordation of Assignment, this patent was purchased from the trustee of the bankruptcy company. I have not received any history about this patent from the trustee of the bankruptcy company at the time of purchasing dated September 30, 2011. Realizing the maintenance fee was overdue, I filed the

petition for unavoidable delayed payment along with the payment of the maintenance fee and payment of surcharge immediately on the same day I purchased this patent, which was the earlier legible date for me to do so."

The Request for Reconsideration has been considered and the Petition of October 3, 2011 has been reconsidered.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. § (2)(B)(2) provides, in part, that:

> The Office-- may, establish regulations, not inconsistent with law, which
>
> (A) shall govern for the conduct of proceedings in Office.

35 U.S.C. § 41(c)(1) provides that:

> The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

37 CFR 1.378(b) provides that:

> (b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:
>
> (1) The required maintenance fee set forth in §1.20 (e) through (g);
>
> (2) The surcharge set forth in §1.20(i)(1); and
>
> (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

OPINION

Petitioner request reconsideration of the previous adverse decision on the petition filed under 37 CFR 1.378(b) and submits that due to having only recently purchased the patent from a bankrupt company, the expiry of the instant patent is unavoidable.

Petitioner has not met the burden of proving to the satisfaction of the Director that the delay in payment of the maintenance fee was unavoidable within the meaning of 35 USC 41(c)(1) and 37 CFR 1.378(b)(3).

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 USC 133 because 35 USC 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 f. 3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Commissioner that the delay in payment of a maintenance fee is unavoidable. See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992); Ray v. Lehman, supra.

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the maintenance fee for this patent. Id.

Unfortunately, the record does not show that petitioner Xiao or the previous owner, Organic Vision, Inc., had any steps in place to ensure payment of the maintenance fee at the time it fell due. Rather, the record only shows that petitioner Xiao recently purchased an expired patent from Organic Vision, Inc. No explanation of a docketing and call up system in use, the types of records kept, or any personnel responsible for such a system was provided by petitioner. It has also not been shown that petitioner Xiao has attempted to contact Organic Vision, Inc. to inquire about any steps they may have had in place.

Petitioner Xiao has not demonstrated that Organic Vision, Inc. had any means of tracking and paying the maintenance fee. Delay resulting from the failure of the patent holder to have any

steps in place to pay the fee by either obligating a third party to track and pay the fee, or by itself assuming the obligation to track and pay the fee, is not unavoidable delay. See R.R. Donnelley & Sons Co. v. Dickinson, 123 F.Supp.2d 456, 460, 57 USPQ2d 1244, 1247 (N.D. Ill. 2000); Ray, supra; California, supra; Femspec v. Dudas, 2007 U.S. Dist. LEXIS 8482 (N.D.Ca 2007).

DECISION

Petitioner has failed to meet the burden of proving to the satisfaction of the Director that the entire delay in submission of the maintenance fee herein was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b). Accordingly, the maintenance fee will not be accepted, this patent will not be reinstated, and this patent remains expired. The petition is **denied.**

The USPTO will not further consider or reconsider this matter. See 37 CFR 1.378(e).

Petitioner should note that the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on September 30, 2011. Please send all requests for refunds to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

Any inquiries concerning this communication may be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

Anthony Knight
Director, Office of Petitions
cb/db

cc: STEVEN SHUYONG XIAO
2555 NANTEL
ST-LAURENT, QUEBEC H4M 1K6
CANADA

---

[i] This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of obtaining judicial review. See MPEP 1002.02.

UNITED STATES 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
Kazuhiro ITAGAKI
Application No. 10/653,247
Filed: September 3, 2003
Attorney Docket No. **1018775-000875**

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 non-final Office action mailed December 23, 2010 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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,866,635	2005-03-15	10/653,262	2003-09-03	P07607US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Douglas E. Jackson/	Date (YYYY-MM-DD)	2011-02-03
Name	Douglas E. Jackson	Registration Number	28518

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6866635
Issue Date: March 15,2005
Application No. 10653262
Filed: September 3,2003
Attorney Docket No. P07607US01/RFH

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 3,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 3,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110713

DATE : July 14, 2011

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction on Patent No.: 7,112,546

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Michael Barr/ **Art Unit** 1711

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Oct. 29, 2009

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/653661 Patent No.: 7112546

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

Michael Barr 1711

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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ww

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVE.
SUITE 360
MISSION VIEJO CA 92691

MAILED
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OFFICE OF PETITIONS

In re Patent No. 7,146,309
Issue Date: December 5, 2006
Application No. 10/653,874
Filed: September 2, 2003
Attorney Docket No. 01CON333P-DIV

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed January 25, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/617,191, filed July 14, 2000, by way of a certificate of correction.

The petition is **DISMISSED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed September 2, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1):

The Certificate of Correction submitted on January 25, 2010 reads: "The present application is a Divisional U.S. Application No. 09/617,191, now U.S. Patent No. 6,636,829, filed July 14, 2000, which claims priority to Provisional U.S. Application Serial No. 60/155,321, filed September 22, 1999." However, a Certificate of Correction is NOT a valid mechanism for adding or correcting a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000. See MPEP 1481.03 and §4503 of the American Inventors Protection Act of 1999 (AIPA)

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) accompanied by a corrected Certificate of Correction deleting the benefit claim to Provisional Application No. 60/155,321, filed September 22, 1999 is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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FEB 24 2011

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Adil **BENYASSINE**, et al

Serial No.: 10/653,874 Group No.

Patent No. 7,146,309 Examiner:

Issued December 5, 2006 Confirmation No.:

Filed: September 2, 2003

For: DERIVING SEED VALUES TO GENERATE EXCITATION VALUES FOR BACKGROUND NOISE OR SILENCE IN A SPEECH CODER

Attorney Docket No.: **01CON333P-DIV**

ATTN: Office of Petitions

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR 1.78(a)(3)

Applicants hereby submit this Renewed Petition in response to the Decision Dismissing Petition Under 37 CFR 1.78(a)(3) And Request for Certificate of Correction mailed 30 August 2010 ("the

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

FACSIMILE

☒ transmitted by facsimile to the Patent and Trademark Office to **(571) 273-8300**

EFS-WEB

☐ transmitted electronically

Date: February 24, 2011

Signature

CLIFFORD J. MASS
(type or print name of person certifying)

Decision"). By this Renewed Petition, Applicants renew their request to add to the above patent a claim for priority under 35 USC 120 to nonprovisional Application No. 09/617,191, filed 14 July 2000.

The Decision sets forth three (3) requirements for a petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and advises that (only) the first of these requirements was not met, namely: (1) the reference required by 35 USC 120 and 37 CFR 1,78(a)(2)(i) of the prior-filed application. The Decision explains that the requirement was not met because the Certificate of Correction submitted on 25 January 2010 contained a claim for priority to a provisional application under 35 USC 119 and a Certificate of Correction is not a valid mechanism for correcting such priority claim after a patent has been granted on an application filed on or after 29 November 2000. The Decision invites Applicants to file a corrected Certificate of Correction deleting the benefit claim to the provisional application.

In accordance with this invitation, Applicants submit herewith a corrected Certificate of Correction wherein the benefit claim to the provisional application has been deleted, and respectfully submit that all requirements for granting of their petition have now been met. Accordingly, favorable reconsideration of their petition and issuance of a Certificate of Correction to correct the priority claim is earnestly solicited and is believed to be fully warranted.

A Power of Attorney is submitted herewith in respect of the practitioners associated with Customer Number 00140.

Applicants hereby petition for any extension of term that may be required by this

paper and authorize any extension fees associated therewith to be charged to Deposit Account 12-0425.

Respectfully submitted,

CLIFFORD J. MASS
LADAS & PARRY LLP
1040 AVENUE OF AMERICAS
NEW YORK, NEW YORK 10018-3738
REG.NO.30086 TEL.NO.(212) 708-1890

PTO/SB/44 (02-01)
Approved for use through 1/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,146,309
DATED : December 5, 2006
INVENTOR(S): Benyassine, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Under the title, at col. 1, line 3, the specification should read: - - The present application is a Divisional of U.S. Application No. 09/617,191, now U.S. Patent No. 6,636,829, filed July 14, 2000. - -

MAILING ADDRESS OF SENDER:
Clifford J. Mass
Ladas & Parry LLP
1040 Avenue of the Americas
New York, N.Y. 10018-3738
Reg. No. 30086 Tel. No. (212) 708-1890

PATENT NO. 7,146,309

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I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

☑ Practitioners associated with the Customer Number 00140

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to

☑ The address associated with Customer Number: 00140

OR

☐ Firm or Individual Name

Address

City State Zip

Country

Telephone Email

Assignee Name and Address:

HTC CORPORATION
NO. 23 XINGHUA RD.
TAOYUAN, TAIWAN 330

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

SIGNATURE of Assignee of Record

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	Feb. 21, 2011
Name	Yih-Yu LEI (as known as Grace Y. Lei)	Telephone	886-3-3753252
Title	General Counsel		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. 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 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Benyassine et al

Application No./Patent No. 7,146,309 Filed/Issue Date: December 5, 2006

Titled:
Deriving Seed Values to Generate Excitation Values in a Speech Coder

HTC Corporation, a corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [X] the assignee of the entire right, title, and interest in;

2. [ ] an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. [ ] the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made) the patent application/patent identified above by virtue of either:

A. [ ] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. [X] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Benyassine, Shlomot and Su To: Conexant Systems, Inc.
   The document was recorded in the United States Patent and Trademark Office at Reel 014477, Frame 0277, or for which a copy thereof is attached.

2. From: Conexant Systems, Inc. To: Mindspeed Technologies, Inc.
   The document was recorded in the United States Patent and Trademark Office at Reel 014568, Frame 0275, or for which a copy thereof is attached.

3. From: Conexant Systems, Inc. To: Mindspeed Technologies, Inc.
   The document was recorded in the United States Patent and Trademark Office at Reel 016041, Frame 0120, or for which a copy thereof is attached.

[X] Additional documents in the chain of title are listed on a supplemental sheet(s).

[X] As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

Feb. 21, 2011
Date

Yih-Yu LEI (as known as Grace Y. Lei)
Printed or Typed Name

General Counsel
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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SUPPLEMENTAL SHEET

B. Chain of Title (continued)

4. From: Mindspeed Technologies, Inc. To: HTC Corporation

The document was recorded at the United States Patent and Trademark Office at Reel 025421, Frame 0563.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Adil **BENYASSINE**, et al

Serial No.: 10/653,874 Group No.

Patent No. 7,146,309 Examiner:

Issued December 5, 2006 Confirmation No.:

Filed: September 2, 2003

For: DERIVING SEED VALUES TO GENERATE EXCITATION VALUES FOR BACKGROUND NOISE OR SILENCE IN A SPEECH CODER

Attorney Docket No.: **01CON333P-DIV**

ATTN: Office of Petitions

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR 1.78(a)(3)

Applicants hereby submit this Renewed Petition in response to the Decision Dismissing Petition Under 37 CFR 1.78(a)(3) And Request for Certificate of Correction mailed 30 August 2010 ("the

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents. P. O. Box 1450, Alexandria, VA 22313-1450

FACSIMILE

☒ transmitted by facsimile to the Patent and Trademark Office to **(571) 273-8300**

EFS-WEB

☐ transmitted electronically

Signature

Date: February 24, 2011

CLIFFORD J. MASS
(type or print name of person certifying)

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 47004.000216	
Application Number: 10/654,091	Filing Date (or 371(b) or (f) Date): 09/04/2003
Patent Number: 7,953,663	Issue Date: 05/31/2011
First Named Inventor: James J. LeKachman	
Title: System And Method For Financial Instrument Pre-Qualification And Offering	

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 08/01/2011
Name (Print/Typed) Robert A. King	Registration Number 42,738

***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.**

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
2200 Pennsylvania Avenue, N.W.
WASHINGTON, DC 20037

Mail Date: 08/05/2011

Applicant	: James J. LeKachman	: DECISION ON REQUEST FOR
Patent Number	: 7953663	: RECALCULATION of PATENT
Issue Date	: 05/31/2011	: TERM ADJUSTMENT IN VIEW
Application No	: 10/654,091	: OF WYETH
Filed	: 09/04/2003	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-25-11

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/654301 Patent No.: 7840322

CofC mailroom date: _____

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should claims be approved

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

Ennis Young

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: _____

Thomas G. Black

SPE

3661

Art Unit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,573	09/02/2003	Salvador Palanca	42P7768C2	5833

7590 09/21/2010

Lester J. Vincent
BLAKELY SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

EXAMINER
GIROUX, GEORGE

ART UNIT	PAPER NUMBER
2183	

DATE MAILED: 09/21/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES DEPARTMENT OF COMMERCE
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P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10654573	9/2/2003	PALANCA ET AL.	42P7768C2

EXAMINER
GIROUX, GEORGE

ART UNIT	PAPER
2183	20100921

DATE MAILED:

Lester J. Vincent
BLAKELY SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The application has been suspended for a period of month starting from September 7, 2010.

/Manorama Padmanabhan/
TC2100

PTO-90C (Rev.04-03)

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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.
10/654,576	09/04/2003	Kathleen D. Danenberg	11220/211	6605

23838 7590 04/18/2011
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER
STRZELECKA, TERESA E

ART UNIT	PAPER NUMBER
1637	

MAIL DATE	DELIVERY MODE
04/18/2011	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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APR 1 8 2011

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

In re Application of:
Kathleen D. Danenberg
Serial No.: 10/654,576
Filed: September 4, 2003
Attorney Docket No.: **11220/211**

: PETITION DECISION

This is in response to the petition filed by appellant under 37 CFR § 1.181(a) on March 21, 2011, requesting that the ground of rejection set forth in the Examiner's Answer be designed as a New Grounds of Rejection, pursuant to MPEP § 1207.03 (IV).

BACKGROUND

Relevant parts of the prosecution history pertinent to this decision are summarized below.

On January 20, 2011, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner rejected claims 8, 10, 15 and 17-21 under 35 U.S.C. 103(a) as being unpatentable over O'Driscoll et al., Danenberg et al., GenBank Accession No. M24485 and Buck et al. Claims 8, 10, 15 and 17-21 were rejected as unpatentable for obviousness-type double patenting over claims 17 and 32 of Danenberg in view of O'Driscoll, Gibson, M24485 and Buck. Claims 8, 10, 15 and 17-21 were rejected as unpatentable for obviousness-type double patenting over claims 21 and 26 of U.S. Patent No. 6,428,963 in view of O'Driscoll, Gibson, M24485 and Buck. Claims 8, 10, 15 and 17-21 were rejected as unpatentable for obviousness-type double patenting over claims 17 and 22 of U.S. Patent No. 6,610,488 in view of O'Driscoll, Gibson, M24485 and Buck. Claims 8, 10, 15 and 17-21 were rejected as provisionally unpatentable for obviousness-type double patenting over claims 1, 24, 26 and 28 of co-pending U.S. Application No. 11/278,804 in view of O'Driscoll, Gibson, M24485 and Buck.

In response thereto, appellant filed this petition under 37 CFR § 1.181(a) on March 21, 2011, requesting that the ground of rejection set forth in the Examiner's Answer be designed as a New

Grounds of Rejection, pursuant to MPEP § 1207.03 (IV). Appellant also concurrently filed a Reply Brief on March 21, 2011.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on March 21, 2011, appellant argues that the Examiner's Answer mailed on January 20, 2011 contained a new ground of rejection. Appellant points out that "In pages 40 and 42, i.e., Part II, iii), of the Examiner's Answer dated January 20, 2011, the Examiner relied on new evidence for her rejections in the form of two new prior art references not presented or relied upon in her rejections previously:

> 1). *Short Protocols" in Molecular Biology,* Third Edition, Ausubel et al., editors, John Wiley & Songs, Chapter 7 (DNA Sequencing), pages 7-1 to 7-5 and 7-56 to 7-57 (1997).
>
> 2). Dieffenbach et al., PCR Meth. Appl., vol. 3, pp. S30-S37, 1993.

The above grounds of rejection constitute new grounds of rejection because, by relying on new evidence, not relied upon or presented by the Examiner before, to support the grounds of rejection in the Examiner's Answer, the evidence relied upon by the Examiner for the prima facie obviousness of her rejections over O'Driscoll, Danenberg, Gibson, M24485 and Buck, and the obviousness-type double patenting rejections, in the Examiner's Answer is not the same as the evidence previously relied upon by the Examiner before the Examiner's Answer was mailed. Appellant notes that the scope of the previously rejected claims 8, 10, 15 and 17 have not changed before the Examiner's Answer was mailed. The appellant has not been given a fair opportunity to respond to the rejections in the Examiner's Answer in light of the new evidence relied upon by the Examiner in support of the rejections. Thus, the above grounds of rejection presented in the Examiner's Answer constitute new grounds of rejection. As a result, appellant petitions that the grounds of rejection be designated as new grounds of rejection."

Appellant's point on the above issue is well-taken and persuasive. A detailed review of the Examiner's Answer shows that the examiner did set forth new references on pages 40 and 42 of the Examiner's Answer. Consequently, appellant has not been provided a fair opportunity to carefully consider and respond to these new references included in the Examiner's Answer.

It is noted that pursuant to M.P.E.P. §1207.03 (III):

> *A new prior art reference applied or cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the*

statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).

It is thus decided that the Examiner's Answer of January 20, 2011 indeed introduced a new ground of rejection. A new ground of rejection is permissible in an Examiner's Answer; however, an Examiner's Answer containing a new ground of rejection must adhere to the provisions set forth in the MPEP concerning the placement of such new grounds of rejection in an Examiner's Answer (MPEP § 1207.03 I-III). Specifically, the new ground of rejection set forth by the examiner in the Examiner's Answer must 1) be approved by a Technology Center Director or designee, 2) specifically identify the new ground of rejection as a 'new ground of rejection,' and 3) provide applicants a two-month time period to reply to the new rejection set forth in the Examiner's answer (see MPEP § 1207.03 (I) for guidance).

Because the examiner set forth a new ground of rejection in the Examiner's Answer and because the examiner did not properly adhere to the requirements for setting forth a new ground of rejection in the Examiner's Answer as set forth above, the Examiner's Answer of January 20, 2011 was improper and is hereby VACATED.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner to either issue a corrected Examiner's Answer adhering to the provisions set forth in MPEP § 1207.03 (I) for introducing a new ground of rejection in an Examiner's Answer; by issuing a corrected Examiner's Answer omitting the new ground of rejection identified herein; or alternatively, to reopen prosecution to set forth said new ground of rejection. It is noted the Reply Brief of March 21, 2011 is now moot in view of this decision.

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.

JMStone

Jacqueline Stone
Director, Technology Center 1600

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Young-Chan Kim et al. :
Application No. 10/654,618 :
Filed: September 4, 2003 : ON PETITION
Attorney Docket No: 1293.1851 :

This is a decision on the petition to withdraw the holding of abandonment, filed February 8, 2011, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned December 27, 2010, for failure failure to pay the issue fee on or before December 23, 2010 as was required by the Notice of Allowance mailed September 23, 2010. Accordingly, a Notice of Abandonment was mailed January 10, 2011.

While the file record discloses that the Notice of Allowance was sent to what was believed to be the email address of record, the same email address to which the Notice of Abandonment was sent and received, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket and docket records revealed that the Notice was not received and submits copies of incoming docket report and records from the master docketing system, wherein receipt of the Notice would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2629 for a re-mailing of the Notice of Allowance and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

MAILED
FEB 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,838,018	: DECISION ON REQUEST FOR
LINDBLAD et al.	: RECONSIDERATION OF
Issue Date: 11/23/2010	: PATENT TERM ADJUSTMENT
Application No. 10/654,720	: AND
Filed: 09/03/2003	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. SSI1BUSA	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d), filed January 13, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand ninety-five (2095) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **two thousand ninety-five (2095) days** is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 thousand ninety-five (2095) 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 : 7,838,018

DATED : Nov. 23, 2010 **DRAFT**

INVENTOR(S) : Lindblad 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 1698 days.

Delete the phrase "by 1698 days" and insert – by 2095 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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DIW May-11

Paper No.

THOMAS E FRANTZ
604 4TH STREET
FORT MADISON IA 52627

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,172,083 :
Issue Date: 02/06/2007 :
Application Number: 10/654,822 : DECISION ON PETITION
Filing Date: 09/03/2003 :
For: MOBILE HYDRAULIC HOIST :
:

This is a decision on the petition filed on April 4, 2011, under 37 CFR § 1.378(b) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued on February 6, 2007. The first maintenance fee could have been paid from February 6 through August 6, 2010, or, with a surcharge during the period from August 7, 2010, through February 6, 2011. Accordingly, the patent expired at midnight February 6, 2011, for failure to timely submit the first maintenance fee.

Petitioner, *pro se*, states that he relied upon his registered patent practitioner, Thomas Frantz (hereinafter "Frantz"), to pay the maintenance fee. Petitioner states that Frantz died in December, 2010, and had not paid the maintenance fee prior to his death. Petitioner has supplied an Internet printout of the obituary notice, which states that Franz died on December 27, 2010.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks requirement (1).

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").[2] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[3] In this regard:

> 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

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[1] 35 U.S.C. § 41(c)(1).

[2] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1989)).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

> unavoidable, all other conditions of promptness in its rectification being present.[4]

At the outset, petitioner's contention that the delay in payment of the first maintenance fee was unavoidable because petitioner's registered patent attorney, Franz, failed to docket and pay the maintenance fee, is inadequate to establish unavoidable delay.

Inasmuch as petitioner's attorney, Franz, assumed responsibility for payment of maintenance fees, assuming that Franz, as petitioners' registered patent attorney had been so engaged, then it is incumbent upon petitioners to demonstrate, via a documented showing, that Franz had docketed this patent for the first maintenance fee payment in a reliable tracking system.[5] If petitioner cannot establish that Franz had been so engaged, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee.[6]

Petitioner is reminded that any errors or omissions of Franz did not relieve petitioner from his obligation to exercise diligence with respect to this patent.[7] In the absence of an adequate showing of petitioners' diligence in this matter throughout the period in question, the actions or inactions of the registered practitioners will remain imputed to petitioner.[8]

With regard to petitioner's assertion that Franz stated he would assist petitioner "in filing the necessary documents and fees," petitioner may wish to consider researching Franz's docketing system. An explanation of the docketing system and statements from anyone who was employed by Franz in docketing patents for payment of the maintenance fee, explaining the steps in place for docketing and paying the maintenance fee(s), should be provided with any renewed petition in the form of an affidavit or

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[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] Id.

[6] Id.

[7] Douglas v. Manbeck, 1991 U.S. Dist. LEXIS 16404, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (applicant's failure over two and one half year period, to exercise any diligence in prosecuting his application overcame and superseded any omissions on the part of his representative).

[8] See In re Lonardo, 17 USPQ2d 1455 (Comm'r Pat. 1990).

declaration of fact by any person with firsthand knowledge of the circumstances, setting forth the facts as they know them.

Lastly, with regard to petitioner's inability to contact or reach Franz in November and December 2010, delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay.[9] Specifically, delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c), and 37 CFR 1.378(b).[10] Furthermore, while petitioner allegedly chose to rely upon counsel, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).[11] Rather, reliance merely shifts the focus of the inquiry from petitioner to whether the practitioner acted reasonably and prudently.[12] Nevertheless, petitioner is bound by any errors that may have been committed by counsel.[13] Petitioner should also note that the U.S. Patent and Trademark Office is not the proper forum for resolving disputes between patentees and their representatives.

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[14] Specifically petitioners' delay caused by the mistakes or negligence of their voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c)(1) or 37 CFR 1.378(b).[15] Petitioners were not forced, but rather made a conscious decision to obtain the services of the chosen representative in payment of the maintenance fees for this patent, and therefore must be held accountable for his actions, or lack thereof, before the Office.

In summary, the showing of record is inadequate to establish unavoidable delay. Rather, than unavoidable delay, the showing

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[9] In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

[10] See Ray, at 619, 34 USPQ2d at 1789.

[11] See California Medical Products v. Technol Med. Prod., 921 F. Supp. 1219, 1259. (D. Del. 1995).

[12] Id.

[13] California, supra.

[14] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[15] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

of record is that petitioner failed to take adequate precautions to ensure that maintenance fees were timely paid. As petitioner has not shown that it exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.[16]

ALTERNATIVE VENUE

Petitioner may wish, in the alternative, to request reconsideration in the form of a petition under 37 CFR 1.378(c), requesting that the unintentionally delayed payment of a maintenance fee be accepted. A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period (e.g., the expiration date of the patent and be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, (3) payment of the $1,640.00 surcharge (the $700.00 surcharge already paid may be credited thereto leaving a balance due of $940.00) set forth in 37 CFR 1.20(i)(2). The statement can be verified by using the attached petition form which includes a declaration according to 37 CFR 1.68.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the patent was expired until the filing of the petition to reinstate under 37 CFR 1.378(c), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.378(c).

The address in the petition is different from the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable.

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[16] See note 4, supra.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl:
PTO/SB/66
PTO/SB/123

Cf:

HARRY F. RAINES
429 NORTH 12TH ST.
MURPHYSBORO IL 62966

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 10 2011
OFFICE OF PETITIONS

THOMAS E FRANTZ
604 4TH STREET
FORT MADISON IA 52627

In re Patent No. 7,172,083 :
Issue Date: 02/06/2007 :
Application Number: 10/654,822 : ON PETITION
Filing Date: 09/03/2003 :
Attorney Docket Number: 082803 :

This is a decision on the petition under 37 CFR 1.378(c), filed June 27, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

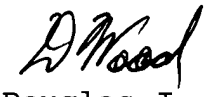
The petition is **GRANTED**.

This patent expired on February 6, 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 address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this patent will be mailed solely to the address of record.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231..



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

HARRY F. RAINES
429 NORTH 12TH ST
MURPHYSBORO IL 62966

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,887,788
Issued: February 15, 2011
Application No. 10/654,907
Filed: September 5, 2003
Attorney Docket No. **05725.1236-00**

: 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-POST GRANT filed on April 12, 2011, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 1378 days to 1420 days.

The application for patent term adjustment-post grant is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand four hundred twenty (1420) days.

On February 15, 2011, the above-identified application matured into U.S. Patent No. 7,887,788 with a revised patent term adjustment of 1378 days. On April 12, 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 1420 days.

The Office initially determined a patent term adjustment of five hundred thirty nine (539) days which included three hundred eighteen (318) days of applicant delay. However, after the issuance of the patent, additional delays were recorded that revised the Patent Term Adjustment. Pursuant to 37 C.F.R. § 1.704(c)(10), a period of reduction totaling 42 days was entered for applicant filing papers after the mailing of the notice of allowance.

Patentee disputes the reduction of 42 days due to the submission on January 6, 2011 of a "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE" after the mailing of the Notice of Allowance.

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.

A review of the application record reveals that the reduction was for an Amendment after Notice of Allowance (Rule 312) January 5, 2011, however the record supports a conclusion that no such amendment was filed on January 5, 2011 and therefore that the entry of 42 days for applicant delay is erroneous.

In view thereof, the patent term adjustment indicated in the patent should have been one thousand four hundred twenty (1420) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand four hundred twenty (1420) 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 : 7,887,788 B2

DATED : February 15, 2011

INVENTOR(S) : Valerie De La Poterie

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 (1378) days

Delete the phrase "by 1378 days" and insert – by 1420 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **03/16/12**

TO SPE OF : ART UNIT: **3716 Attn: SUHOL DMITRY (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/655154** Patent No.: **8087996**

CofC mailroom date: **02/28/2012**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: **Please check claims for the requested Corrections, should these claims be amended or not**

Tasneem Siddiqui
Certificates of Correction Branch

703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

3716
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
Michael Kuhn, et al.	:	DECISION ON PETITION
Application No. 10/655,614	:	TO WITHDRAW
Filed: September 5, 2003	:	FROM RECORD
Attorney Docket No. **741439-8**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed September 29, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
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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DENNISON ASSOCIATES
133 RICHMOND STREET WEST, SUITE 301
TORONTO M5H 2L7 CA CANADA

MAILED

NOV 14 2011

OFFICE OF PETITIONS

In re Application of :
John Rice :
Application No. 10/655,619 :
Filed: September 5, 2003 :
Attorney Docket No. JJ-11 695US :

DECISION ON PETITION

This is a decision on the petition filed October 14, 2011 under the unintentional provisions of 37 CFR 1.137(b), to revive 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 unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $930.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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DEC 16 2011
OFFICE OF PETITIONS

DENNISON ASSOCIATES
SUITE 301
133 RICHMOND STREET WEST
TORONTO M5H 2L7 CA CANADA

In re Application of	:	
John Rice	:	
Application No. 10/655,619	:	ON PETITION
Filed: September 5, 2003	:	
Attorney Docket No. JJ-11 695US	:	

This is a decision on the petition filed November 18, 2011, which is being treated as a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $930; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kilpatrick Townsend & Stockton LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of David Franzen et al Application No. 10/655,749 Filed: September 5, 2004 U.S. Patent No.: 7,362,439 Issued: April 22, 2008	: : **DECISION** : **GRANTING** : **PETITION** : :	MAILED FEB 18 2011 OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application and accept a late paper, filed on December 22, 2010, and on the supplements to the petition to revive, filed on January 11, 2011 and February 16, 2011, respectively (collectively, "the petition to revive").

The petition to revive under 37 CFR 1.137(b) and the record as a whole are before the Office of Patent Legal Administration for consideration.

The petition fee of $810 set forth in 37 CFR 1.17(m) for the present petition under 37 CFR 1.137(b), and the $555 fee under 37 CFR 1.17(a)(3) for a three-month extension of time, have been charged to deposit account no. 20-1430.

SUMMARY

The petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application and accept a late paper, filed on December 22, 2010, is **granted**. U.S. Patent 7,362,439 remains as issued.

DECISION

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) a reply to the outstanding Office action, (2) the petition fee set forth in 37 CFR 1.17(m), and (3) a proper statement under 37 CFR 1.137(b)(3) that the entire delay in filing the required reply from the due date of the reply to the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. The applicant has filed a properly executed copy of the amendment, which was originally submitted on January 11, 2007,[1] the current fee under 1.17(a)(3) for a three-month extension of time, and a petition fee under 37 CFR 1.17(m), which satisfy items (1) and (2), respectively.

A statement under 37 CFR 1.137(b)(3) has also been submitted with the December 22, 2010 petition (see page 2 of form PTO/SB/64), which satisfies item (3).

[1] On February 16, 2011, the applicant submitted a copy of an amendment, which was untimely filed on January 11, 2007. The February 16, 2011 copy includes the signature and registration number of Mr. Gerald T. Gray, the patent practitioner who submitted the present petition. In the letter accompanying the February 16, 2011 submission, Mr. Gray verifies that he is ratifying the January 11, 2007 amendment originally submitted by applicant's former attorney, Mr. Prendergast.

In 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, the United States Patent and Trademark Office ("the Office") is relying on the duty of candor and good faith of the applicant and of applicant's representative. See also 37 CFR 1.4(d)(4), which incorporates 37 CFR 11.18(b), and *Changes to Patent Practice and Procedure,* 62 Fed. Reg. 53131, 53160, 53178; 1203 *Off. Gaz. Pat. Office* 63, 88, 103 (responses to comment nos. 64 and 109) (October 21, 1997) (final rule) (applicant's representative is obligated under [former] 37 CFR 10.18(b) [now 37 CFR 11.18(b)] to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b)(3) to the Office). The signatures appearing on the December 22, 2010 petition and on the January 11, 2011 and February 16, 2011 supplements to the petition constitute a representation to the Office that the signing attorney has made an inquiry in accordance with 37 CFR 11.18(b), to ascertain that the delay was unintentional.

Accordingly, based on the certification under 37 CFR 1.4(d)(4), which incorporates 37 CFR 11.18(b), and on the specific facts and circumstances of this application, the petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application and accept a late paper, filed on December 22, 2010, is **granted**. U.S. Patent 7,362,439 remains as issued.

Any inquiry concerning this decision should be directed to Cynthia L. Nessler, Senior Legal Advisor, at (571) 272-7724.

Brian E. Hanlon

Brian E. Hanlon
Director
Office of Patent Legal Administration

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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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OCT 12 2010
OFFICE OF PETITIONS

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

Patent No. 7,016,182	:	
Application No. 10/655,802	:	
Filed: September 5, 2003	:	NOTICE
Issued: March 21, 2006	:	
Attorney Docket No. 0746MH-40213C	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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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LANDMARK INTELLECTUAL PROPERTY LAW, PLLC
P.O. BOX 1266
MIDLOTHIAN, VA 23113

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of	:
Graves et al.	:
Application No. 10/655,828	: DECISION ON PETITION
Filed: September 5, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 62941.002015	: AND 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed July 8, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of priority to the prior-filed applications.

The petition is **DISMISSED**.

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) 37 CFR §§1.78(a)(2)(i) and 1.78(a)(5)(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 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 petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable.

Accordingly, a substitute amendment, in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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LANDMARK INTELLECTUAL PROPERTY LAW, PLLC
P.O. BOX 1266
MIDLOTHIAN, VA 23113

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of	:
Graves et al.	:
Application No. 10/655,828	: DECISION GRANTING PETITION
Filed: September 5, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 62941.002015	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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 Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on September 5, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center Art Unit 3695 for appropriate action on the amendment submitted September 27, 2010, including consideration by the examiner of the claim under 35 U.S.C. § §120 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 applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/655,828	09/05/2003	3695	876	62941.002015	71	4

CONFIRMATION NO. 7150

CORRECTED FILING RECEIPT

94551
LANDMARK INTELLECTUAL PROPERTY LAW, PLLC
P.O. BOX 1266
MIDLOTHIAN, VA 23113

OC000000045401957

Date Mailed: 01/11/2011

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)

Phillip Craig Graves, Atlanta, GA;
Merrill Brooks Smith, Atlanta, GA;

Power of Attorney: The patent practitioners associated with Customer Number 94551

Domestic Priority data as claimed by applicant

This application is a CIP of 10/411,971 04/11/2003 PAT 7,083,084
which is a CON of 09/641,363 08/18/2000 PAT 6,575,361
which claims benefit of 60/149,740 08/19/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/655,828**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

System and method for securely authorizing and distributing stored-value card data

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Patent of Blattner et al. :
Patent No. 7,303,906 :
Issue Date: December 4, 2007 :
Application No. 10/655,914 :
Filing Date: September 5, 2003 :
Attorney Docket No. WARF:018US/ :
10409267 :

DECISION ON REQUEST FOR CERTIFICATE OF CORRECTION

This letter is in response to the request for certificate of correction, filed July 6, 2010, requesting correction of the patent term adjustment indicated in the patent. Patentees request the patent term adjustment read "112 days" instead of 0 days.

The request is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS** to respond to this decision. Extensions of time will NOT be granted under 37 C.F.R. § 1.136(a).

The patent issued on December 4, 2007. The patent indicated the patent term adjustment was 0 days. The instant request was filed on July 6, 2010.

During July 2010, the Office issued a notice in the federal register clarifying when the Office will change the patent term adjustment for a patent via issuance of a certificate of correction.[1] The Notice states,

> The USPTO ... has determined that it is not appropriate to provide a patent term adjustment recalculation via a certificate of correction under 35 U.S.C. 254 or 255. A certificate of correction is permissible under 35 U.S.C. 254 only for a mistake in a patent that "is clearly disclosed by the records of the Office." *See* 35 U.S.C. 254. While the applicable patent term adjustment is ascertainable from the records of the USPTO, a revised patent term adjustment determination requires a complex calculation that is not "clearly disclosed" by the records of the USPTO. In addition, a certificate of correction is permissible under 35 U.S.C. 255 only for "a mistake of a clerical or typographical nature, or of minor character." *See* 35 U.S.C. 255.

[1] *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).

> Thus, the USPTO has long maintained that a request for a certificate of correction under either 35 U.S.C. 254 or 255 is not an appropriate venue for seeking a change to the patent term adjustment indicated on the patent....
>
> [I]t is not appropriate to issue a certificate of correction under 35 U.S.C. 254 or 255 to revise the patent term adjustment indicated in the patent unless it is being revised for consistency with: (1) The patent term adjustment determined via a decision on a request for reconsideration under 37 CFR 1.705; or (2) the total patent term adjustment indicated on the Patent Application Information Retrieval (PAIR) screen that displays the patent term adjustment for the patent....
>
> [T]he USPTO will not grant a request for a certificate of correction ... to revise the patent term adjustment indicated in the patent, except in the two situations discussed previously.[2]

Even if the number of days of patent term adjustment on a requested certificate of correction is less than the number of days listed on a patent, a certificate of correction will not be issued unless one of the previously identified exceptions exist. As stated by the Office, with emphasis added,

> If the applicant or patentee wants the USPTO to reconsider its patent term adjustment determination, the applicant must use the procedures set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination, whether the USPTO's patent term adjustment determination is greater <u>or less than</u> the adjustment that the applicant believes to be appropriate.[3]

Neither of the two exceptions discussed in the previously quoted language apply in this case. Therefore, the request for a certificate of correction listing a patent term adjustment of 0 days is dismissed.

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

[2] Id. at 42079-42080.

[3] Id. at 42080.

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KEVIN M FARRELL
FARRELL & ASSOCIATES P C
P O BOX 999
YORK HARBOR ME 03911

MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Application of :
Michael Lebner :
Application No. 10/655,941 :
Filed: September 5, 2003 :
Attorney Docket No. **0156-2003US02** :

NOTICE

This is a notice regarding your request filed October 21, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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AUG 16 2010
OFFICE OF PETITIONS

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,756,814	:
Fischer, et al.	: DECISION ON APPLICATION
Issued: July 13, 2010	: FOR PATENT TERM
Application No. 10/656,208	: ADJUSTMENT AND NOTICE OF
Filed: September 8, 2003	: INTENT TO ISSUE CERTIFICATE
Attorney Docket No. 07781.0086-00	: OF CORRECTION

This is in response to the "Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation" filed December 8, 2009, which will be treated as a petition under 37 CFR 1.705(b)[1]. Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be reflected as 195 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 **four hundred and eleven (411) days is GRANTED TO THE EXTENT INDICATED HEREIN.**

On November 24, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment was 276 days. On December 8, 2009, patentees submitted the instant petition. Patentees maintain that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and state specifically:

> Applicants believe that there should have been a 49

[1] It is noted that the instant petition was filed on December 18, 2009, prior to the payment of the issue fee. It is further noted that the application has since matured into U.S. Patent No. 7,752,628 and that additional adjustment to the patent term is warranted. This decision is being treated under 37 CFR 1.705(b), notwithstanding. If patentees determine that a petition under 37 CFR 1.705(d) is appropriate, patentees must filed said petition with two months of the date of issuance patent and the petition should be accompanied by the appropriate fee under 37 CFR 1.18(e).

> day reduction of the patent term adjustment for the Request for Continued Examination filed on May 17, 2007, and a 33 day deduction from the date the Applicant filed the Request for Continued Examination on May 17, 2007 to the date that a further Information Disclosure Statement was filed on June 19, 2007. Further, Applicants believe that the 58 day deduction of paten term adjustment from the October 28, 2008 filing date of a Response to the December 24, 2008 filing date of an Information Disclosure Statement should be a 57 day deduction. Although the Transaction History on PAIR indicates that the Response was filed on October 27, 2008, the Response was filed on October 28, 2008…

Excerpt taken from "Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation" filed March 24, 2010, p. 2.

Applicants' arguments have been considered and are well taken, in most respects.

Relative to the proposed 49 day reduction to the patent term adjustment for the filing of the Request for Continued Examination on May 17, 2007, the record reflects that a final Office Action was mailed August 22, 2006, and the response tolling the period under 37 CFR 1.704(b) was filed on January 29, 2007, in the form of a Notice of Appeal. The filing of the Notice of Appeal on January 29, 2007, began the period of appeal and the filing of the Request for Continued Examination on May 17, 2007, ended that period. There is no indication that entry of a period of reduction to the patent term was warranted in this instance.

Relative to the proposed 33 day reduction to the patent term adjustment for the filing the Information Disclosure Statement on June 19, 2007, the record reflects that on June 19, 2007, patentees submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) after filing a reply in the form of a Request for Continued Examination on May 17, 2007. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed June 19, 2007, reveals that applicant did not include a statement under 37 CFR 1.704(d).[2] Thus,

---

[2] Pursuant to 37 CFR § 1.704(d):

applicant failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 33 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, May 18, 2007, and ending on the date that the IDS was filed, June 19, 2007. **A period of reduction of 33 days will be entered accordingly.**

Patentees further note that the period of reduction of 58 days to the patent term under 37 CFR 1.704(c)(8) for the filing of a IDS on December 24, 2008, is incorrect in that said period should be 57 days. Patentees argument is well taken as a review of the file history reveals that the response under 37 CFR 1.704(b), to which the IDS filed December 24, 2008, was a supplemental paper, was filed October 28, 2008, not October 27, 2008, as PALM records indicate. Accordingly, the period of reduction under 37 CFR 1.704(c)(8) is 57 days, with said period beginning October 29, 2008, and ending December 24, 2008. **The period of 58 days is being removed and a period of 57 will be entered.**

It is noted that a reduction to the patent term of 120 days was entered for the filing of the instant petition. Pursuant to 37 CFR 1.704(e), the filing of the petition under 37 CFR 1.705(b) will not be considered a failure to engage in reasonable prosecution of the application under 37 CFR 1.704(c)(10). **Accordingly, the period of reduction of 120 days is being removed.**

In view thereof, the revised determination of the patent term adjustment is **411 days** (681 days of Office delay[3] - 0 days of overlap - 270 days of applicant delay).

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

[3] This period of "Office delay" includes 539 days of "A" examination delay" and 142 days of "B" over three year delay. The "B" period was reduced by 108

Deposit account 06-0916 will be charged $200.00 for the fee set forth under 37 CFR 1.18(e).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred and eleven (411) days**.

Telephone inquiries specific to this decision 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

---

days for the appeal period which began with the filing of the notice of appeal on January 29, 2007. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 250 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, January 29, 2007, and ending on the day before the Request for Continued Examination was filed, May 16, 2007. Thus, the B delay is 142 days (250 - 108).

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,756,814 B2

DATED : Jul. 13, 2010

INVENTOR(S) : Fischer 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 (323) days

Delete the phrase "by 323 days" and insert – by 411 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

In re Patent No. 7129900
Issue Date: October 31,2006
Application No. 10656279
Filed: September 8,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7129900	2006-10-31	10656279	2003-09-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Mark Yang/	Date (YYYY-MM-DD)	2010-12-30
Name	Mark Ming-Jen Yang	Registration Number	37076

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 23 2008

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No 10/656435 patent no7335692

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1762

Art Unit

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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO CA 94303

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of	:	
David Baltimore et al.	:	
Application No. 10/656,531	:	DECISION ON PETITION
Filed: September 5, 2003	:	
Attorney Docket No. **8325-5001**	:	

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 petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 9, 2010 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 10, 2010. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $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 1652 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

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Alexandria, VA 22313-1450
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PVF -- PARC
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Diana K. SMETTERS et al.	:	
Application No. 10/656,551	:	DECISION DISMISSING PETITION
Filed: September 05, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PARC-DA3162Q	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 30, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 11/395,274, filed April 03, 2006.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

The filing date of parent application 11/395,274 must be earlier or equal to the current case 10/656,551 filing date.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/
Thurman K. Page
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 8,048,369 B2
Ser. No. : 10/656,918
Inventor(s) : Forbes Jones et al.
Issued : Nov. 1, 2011
Title : COBALT-NICKEL-CHROMIUM –MOLYBDENUM ALLOYS WITH REDUCED LEVEL OF TITANIUM NITRIDE INCLUSIONS
Docket No. : TAV-2044
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.

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

ABBYY SOFTWARE LTD.
11-1, KASATKINA STR.
MOSCOW 12930-1 RU RUSSIAN FEDERATION

MAILED
JAN 3 1 2011
OFFICE OF PETITIONS

In re Application of :
ANISIMOVICH, et al :
Application No. 10/657,008 :
Filed: September 8, 2003 :
Attorney Docket No. ABBYY-U12 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action, mailed January 9, 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 April 10, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

With respect to item (3): The petition contains a statement of unintentional delay signed by an assignee of the entire interest, however, the assignee has not been properly made of record under 37 CFR 3.71 which 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.

37 CFR 3.73(b) states:

(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.

Accordingly, since the petition was not accompanied by the reel and frame or a copy of the assignment document, the statement under 37 CFR 3.73(b) is incomplete and cannot be accepted.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition** under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ABBYY SOFTWARE LTD.
11-1, KASATKINA STR.
MOSCOW 12930-1 RU RUSSIAN FEDERATION

In re Application of	:	
ANISIMOVICH, et al	:	
Application No. 10/657,008	:	DECISION ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. ABBYY-U12	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 9, 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 April 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: VANI MOODLEY
HAHN AND MOODLEY LLP
3333 BOWERS AVENUE, SUITE 130
SANTA CLARA, CA 95054

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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SEP 13 2010

OFFICE OF PETITIONS

BUCHANAN INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Patent No. 6,998,019 :
Issue Date: February 14, 2006 :
Application No. 10/657,133 : ON PETITION
Filed: September 9, 2003 :
Patentee(s) Homan B. Kinsley :

This is a decision on the petition under 37 CFR 1.378(c), filed July 15, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Kevin H. Vanderleeden
McCormick Paulding and Huber LLP
1350 Main Street
Springfield, MA 01103

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED
NOV 30 2010
OFFICE OF PETITIONS

In re Patent No. 6,921,459	:	
Issue Date: July 26, 2005	:	
Application No. 10/657,134	:	DECISION ON PETITION
Filed: September 09, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 15, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on July 26, 2009 for failure to pay the three and one half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **KEVIN H. VANDERLEEDEN**
MCCORMICK PAULDING & HUBER LLP
1350 MAIN STREET
SPRINGFIELD MA 01103

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AUG 30 2010

OFFICE OF PETITIONS

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of :
Alexander et al. :
Application No. 10/657,145 :
Filed: September 9, 2003 :
Attorney Docket No.IMMR-IMD0002D(434701-005 :
Title: INTERFACE DEVICE AND METHOD FOR INTERFACING INSTRUMENTS TO MEDICAL PROCEDURE SIMULATION SYSTEMS :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" filed April 23, 2010. Applicants request that the determination of patent term adjustment be corrected from one hundred ninety-one (191) days to one thousand one hundred twenty-eight (1,128) 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). 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].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the

[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.**

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 191 days. The instant application for patent term adjustment was timely filed on April 26, 2010.

Applicants state that the 31 day adjustment pursuant to 37 CFR 1.703(a)(3) should be removed and a 61 day reduction pursuant to 37 CFR 1.704(b) is required for the submission of the May 13, 2005 reply.

The Office has considered applicants' argument and finds it persuasive. A review of the record shows that in response to the final Office action mailed on December 13, 2004, an amendment which reopened prosecution was not filed until May 13, 2005. 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 61 days is required for applicant delay for the period beginning March 14, 2005, the day after the date that is three months after the mailing of the final Office action and ending on May 13, 2005, the date the reply was filed. The 4 day reduction will be removed and replaced with a 61 day reduction.

Based upon the fact that a response to the final Office action was received on May 13, 2005 and not March 17, 2005 a 31 day

adjustment is not warranted as the August 17, 2005 Office action was mailed within four months pursuant to 37 CFR 1.703(a)(2).

Applicants delay totals 169 (4 + 61 + 3 + 5 + 5 + 62 + 29) days. Office delay totals 272 (265 + 7) days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is one hundred three (103) days.

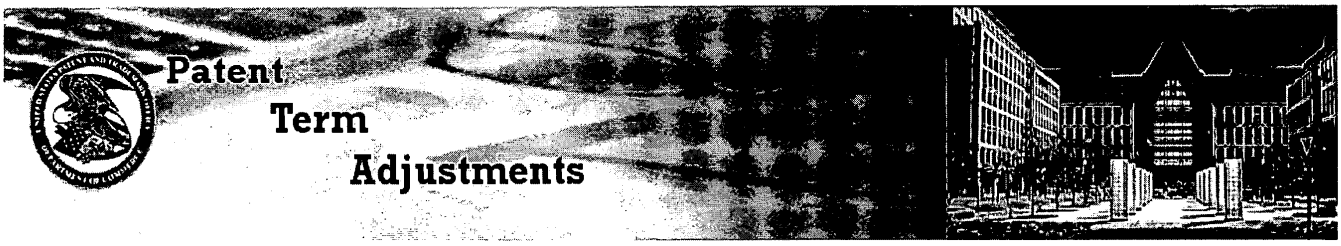
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10657145 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10657145

Application Filing Date	09/09/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	303
A Delays	303	PTO Manual Adjustment	-88
B Delays	0	Applicant Delay (APPL)	112
C Delays	0	Total PTA (days)	103

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
120	08/28/2010		P028	Adjustment of PTA Calculation by PTO	88	0	
105	01/26/2010		MN/=.	Mail Notice of Allowance		0	
104	01/21/2010		IREV	Issue Revision Completed		0	
103	01/21/2010		DVER	Document Verification		0	
102	01/21/2010		N/=.	Notice of Allowance Data Verification Completed		0	

101	01/19/2010		EX.A	Examiner's Amendment Communication			0
100	01/19/2010		CNTA	Notice of Allowability			0
92	10/15/2009		FWDX	Date Forwarded to Examiner			0
90	10/15/2009		FWDX	Date Forwarded to Examiner			0
88	10/15/2009		ABN9	Disposal for a RCE / CPA / R129			0
97	10/08/2009		IDSC	Information Disclosure Statement considered			0
96	10/08/2009		IDSC	Information Disclosure Statement considered			0
95	10/08/2009		M844	Information Disclosure Statement (IDS) Filed			0
94	10/08/2009		RCAP	Reference capture on IDS			0
93	10/08/2009		M844	Information Disclosure Statement (IDS) Filed			0
91	10/08/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
89	10/08/2009	09/09/2009	RCEX	Request for Continued Examination (RCE)		29	83
87	10/08/2009		XT/G	Request for Extension of Time - Granted			0
86	10/08/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
85	10/08/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
84	10/08/2009		BRCE	Workflow - Request for RCE - Begin			0
83	06/09/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
82	06/08/2009		CTFR	Final Rejection			0
81	05/14/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
80	05/11/2009		C.AD	Correspondence Address Change			0
79	03/11/2009		FWDX	Date Forwarded to Examiner			0
78	03/02/2009	12/30/2008	A...	Response after Non-Final Action		62	75
77	03/02/2009		XT/G	Request for Extension of Time - Granted			0
76	10/08/2008		DOCK	Case Docketed to Examiner in GAU			0
75	09/30/2008		MCTNF	Mail Non-Final Rejection			0
74	09/26/2008		CTNF	Non-Final Rejection			0
73	08/25/2008		FWDX	Date Forwarded to Examiner			0
72	08/05/2008		A.NE	Amendment after Final Rejection			0
71	07/10/2008	07/03/2008	MCTFR	Mail Final Rejection (PTOL - 326)	7		67
70	07/07/2008		CTFR	Final Rejection			0
68	05/05/2008		FWDX	Date Forwarded to Examiner			0
69	03/03/2008		IDSC	Information Disclosure Statement			0

				considered			
67	03/03/2008	02/27/2008	A...	Response after Non-Final Action		5	63
66	03/03/2008		RCAP	Reference capture on IDS			0
65	03/03/2008		M844	Information Disclosure Statement (IDS) Filed			0
64	03/03/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
63	11/27/2007		MCTNF	Mail Non-Final Rejection			0
62	11/26/2007		CTNF	Non-Final Rejection			0
61	09/18/2007		FWDX	Date Forwarded to Examiner			0
60	09/10/2007	09/05/2007	A...	Response after Non-Final Action		5	59
59	06/05/2007		MCTNF	Mail Non-Final Rejection			0
58	05/29/2007		CTNF	Non-Final Rejection			0
57	03/26/2007		FWDX	Date Forwarded to Examiner			0
56	03/14/2007	03/11/2007	A...	Response after Non-Final Action		3	55
55	12/11/2006	03/21/2006	MCTNF	Mail Non-Final Rejection	265		46
54	11/27/2006		CTNF	Non-Final Rejection			0
51	10/17/2006		DOCK	Case Docketed to Examiner in GAU			0
50	10/12/2006		DOCK	Case Docketed to Examiner in GAU			0
49	04/26/2006		C.ADB	Correspondence Address Change			0
47	11/30/2005		FWDX	Date Forwarded to Examiner			0
53	11/21/2005		IDSC	Information Disclosure Statement considered			0
48.7	11/21/2005	11/21/2005	M844	Information Disclosure Statement (IDS) Filed			46
48	11/21/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
46	11/21/2005	11/17/2005	A...	Response after Non-Final Action		4	43
52	10/31/2005		IDSC	Information Disclosure Statement considered			0
45.7	10/31/2005		M844	Information Disclosure Statement (IDS) Filed			0
45	10/31/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
44	10/06/2005		DOCK	Case Docketed to Examiner in GAU			0
43	08/17/2005	07/17/2005	MCTNF	Mail Non-Final Rejection	31		31
42	08/16/2005		CTNF	Non-Final Rejection			0
40	07/27/2005		DOCK	Case Docketed to Examiner in GAU			0
39	05/23/2005		FWDX	Date Forwarded to Examiner			0
36	05/23/2005		C.AD	Correspondence Address Change			0

35	05/23/2005		PA..	Change in Power of Attorney (May Include Associate POA)		0
34	03/31/2005		MCTAV	Mail Advisory Action (PTOL - 303)		0
33	03/30/2005		CTAV	Advisory Action (PTOL-303)		0
32	03/24/2005		FWDX	Date Forwarded to Examiner		0
30	03/24/2005		C.AD	Correspondence Address Change		0
29	03/24/2005		PA..	Change in Power of Attorney (May Include Associate POA)		0
28	03/24/2005		C.AD	Correspondence Address Change		0
31	03/17/2005	03/13/2005	A.NE	Amendment after Final Rejection	4	26
38	03/13/2005		A.NE	Amendment after Final Rejection		0
37	03/13/2005		XT/G	Request for Extension of Time - Granted		0
27	12/13/2004		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
26	12/13/2004		MCTFR	Mail Final Rejection (PTOL - 326)		0
25	12/09/2004		CTFR	Final Rejection		0
24	10/05/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
20	10/05/2004		FWDX	Date Forwarded to Examiner		0
41	09/15/2004		IDSC	Information Disclosure Statement considered		0
22	09/15/2004		RCAP	Reference capture on IDS		0
21.7	09/15/2004	09/15/2004	M844	Information Disclosure Statement (IDS) Filed		19
21	09/15/2004		WIDS	Information Disclosure Statement (IDS) Filed		0
19	09/15/2004		A...	Response after Non-Final Action		0
18	09/15/2004		WAMD	Workflow incoming amendment IFW		0
17	08/17/2004		EXIN	Examiner Interview Summary Record (PTOL - 413)		0
16	06/15/2004		MCTNF	Mail Non-Final Rejection		0
15	06/14/2004		CTNF	Non-Final Rejection		0
14	02/27/2004		DOCK	Case Docketed to Examiner in GAU		0
23	01/09/2004		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0
13	01/09/2004		A.PE	Preliminary Amendment		0
11	12/16/2003		TI1050	Transfer Inquiry to GAU		0
10	12/08/2003		WROIPE	Application Return from OIPE		0
9	12/08/2003		COMP	Application Is Now Complete		0
8	12/08/2003		ROIPE	Application Return TO OIPE		0
7	12/08/2003		COMP	Application Is Now Complete		0

6	12/08/2003	OIPE	Application Dispatched from OIPE	0
5	12/08/2003	COMP	Application Is Now Complete	0
4	11/21/2003	CLSS	CASE CLASSIFIED BY OIPE	0
3	11/21/2003	L194	Cleared by OIPE CSR	0
2	10/12/2003	SCAN	IFW Scan & PACR Auto Security Review	0
12	09/09/2003	A.PE	Preliminary Amendment	0
1	09/09/2003	IEXX	Initial Exam Team nn	0

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CHARLOTTE, NC 28280-4000

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of:	:	
Halbert et al.	:	
Application No. 10/657,404	:	DECISION ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. 031749/268956	:	

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**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 2, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, a reply was due on or before January 3, 2008. A Notice of Abandonment was mailed April 17, 2008.

Petitioner asserts that the Office action dated October 2, 2007, was not received.

A review of the written record does in fact indicate an irregularity in the mailing of the final Office action. On October 4, 2007, said Office action was returned to the U.S. Patent and Trademark Office as undelivered.

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 technical support staff of Art Unit 1652 for re-mailing of the final Office action of October 2, 2007. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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In re Patent No. 7064923
Issue Date: June 20,2006
Application No. 10657587
Filed: September 8,2003
Attorney Docket No. 139-028U

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7064923	2006-06-20	10657587	2003-09-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2010-12-08
Name	Benoit CASTEL	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 7,296,036	: DECISION DISMISSING PETITION
Issue Date: November 13, 2007	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/657,757	: REQUEST FOR CERTIFICATE OF
Filed: September 8, 2003	: CORRECTION
Attorney Docket No. 18358-006	:

This is a decision on the petition, filed February 22, 2012, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/123,788, filed April 16, 2002, by way of a certificate of correction.

The petition is **dismissed**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed September 8, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This petition fails to meet (1) above because the proposed certificate of correction contains a typographical error. In pertinent part: This applicaion [sic] is a continuation... ." In order to avoid the necessity of issuing yet another certificate of correction, the petition is dismissed.

Accordingly, an error free certificate of correction satisfying the requirements of 37 CFR 1.78(a)(2)(i) must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

The Office acknowledges receipt of the $1,410 surcharge fee, as well as the $100 certificate of correction fee. No additional fees will be required when the renewed petition and certificate of correction are filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

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 inquiries concerning this decision may 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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
MAR 21 2012
OFFICE OF PETITIONS

In re Patent No. 7,296,036	: CORRECTED
Issue Date: November 13, 2007	: DECISION DISMISSING PETITION
Application No. 10/657,757	: UNDER 37 CFR 1.78(a)(3) AND
Filed: September 8, 2003	: REQUEST FOR CERTIFICATE OF
Attorney Docket No. 18358-006	: CORRECTION

This is a corrected decision on the petition, filed February 22, 2012, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/123,788, filed April 16, 2002, by way of a certificate of correction. The decision on petition, mailed March 15, 2012 is ***vacated***.

The petition is **dismissed**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed September 8, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

The Office notes:

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

MPEP 1481.03(II)(B) .

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to add or correct a claim under 35 U.S.C. 120 for benefit of a prior-filed nonprovisional application.

In this instance, petitioner has not satisfied condition (C) above because he did not submit a grantable petition under 37 CFR 1.78(a)(3).

A petition for acceptance of an unintentionally delayed claim 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) and (iii) to the prior-filed application (unless previously submitted);

(2) the surcharge set forth in 37 CFR 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The petition must be dismissed because the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) has not be properly supplied. Specifically, petitioner did not submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or in a supplemental ADS. Pursuant to 37 CFR 1.78(a)(2)(iii), the reference to the prior-filed nonprovisional application must be included in an application data sheet (§ 1.76) or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. Additionally, the Office notes that the Certificate of Correction form submitted on February 22, 2012, only requested correction of the front page of the Letters Patent.

Before, the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by either a supplemental ADS or an amendment to the specification to add the benefit claim.[1] Additionally, petitioner must submit a completed Certificate of Correction form correcting the reference to the prior-filed nonprovisional application on both the front page and the first paragraph of the specification of the Letters Patent. The text of the correction, as well as the location of the error in the printed patent should

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, any supplemental ADS or amendment submitted on renewed petition must be signed in accordance with 37 CFR 1.33(b).

be identified on form PTO/SB/44 by column and line number. It is noted the proposed certificate of correction contains a typographical error. In pertinent part: This applicaion [sic] is a continuation... ." Please correct this error.

The Office acknowledges receipt of the $1,410 surcharge fee, as well as the $100 certificate of correction fee. No additional fees will be required when the renewed petition and certificate of correction are filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
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 inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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Senior Petitions Attorney
Office of Petitions

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ONE FINANCIAL CENTER
BOSTON MA 02111

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APR 13 2012
OFFICE OF PETITIONS

In re Patent No. 7,296,036
Issue Date: November 13, 2007
Application No. 10/657,757
Filed: September 8, 2003
Attorney Docket No. 18358-006

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION

This is a decision on the renewed petition, filed April 2, 2012, under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/123,788, filed April 16, 2002, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed September 8, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

The Office notes:

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

MPEP 1481.03(II)(B) .

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to add or correct a claim under 35 U.S.C. 120 for benefit of a prior-filed nonprovisional application.

Petitioner has satisfied the above listed requirements.

A petition for acceptance of an unintentionally delayed claim 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) and (iii) to the prior-filed application (unless previously submitted);

(2) the surcharge set forth in 37 CFR 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3) and applicant has submitted a completed Certificate of Correction form correcting the reference to the prior-filed nonprovisional application on both the front page and the first paragraph of the specification of the Letters Patent, the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/657,757	09/08/2003	2165	948	18358-006	39	3

CONFIRMATION NO. 1170

CORRECTED FILING RECEIPT

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

OC000000053694853

Date Mailed: 04/12/2012

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)

Feyzi Celik, Hopkinton, MA;

Power of Attorney:

Anthony Mirabito--28161
James Gatto--32694
Howard Susser--33556
Matthew Golden--35161
Brett Dorny--35860
Nicholas Triano III--36397
David Crosby--36400
John Harre--37345
Naomi Biswas--38384
Thomas Sullivan--39392

Domestic Priority data as claimed by applicant

This application is a CON of 10/123,788 04/16/2002 PAT 6654768
which is a CON of 09/223,129 12/30/1998 PAT 6374259
which claims benefit of 60/102,614 10/01/1998

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: 12/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/657,757**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR STORING AND RETRIEVING BUSINESS CONTACT INFORMATION IN A COMPUTER SYSTEM

Preliminary Class

707

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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MCANDREWS HELD & MALLOY
SUITE 3400
500 W. MADISON STREET
CHICAGO IL 60661

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Gollnick, et al.	:	
Application No. 10/657,785	:	ON REQUEST FOR
Filed: September 8, 2003	:	RECONSIDERATION OF
Attorney Docket Number: 14206US03	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 28, 2010. Applicants believe that they should be accorded additional PTA of 1090 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **one hundred (100) days** (649 days of PTO delay, reduced by 549 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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CHRISTOPHER C WINSLADE
MCANDREWS HELD & MALLOY
SUITE 3400
500 W. MADISON STREET
CHICAGO IL 60661

MAILED
MAR 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Gollnick, et al.	:	
Application No. 10/657,785	:	
Filed: September 8, 2003	:	
Patent No. 7,826,818	:	ON REQUEST FOR
Issued: November 2, 2010	:	RECONSIDERATION OF
Attorney Docket Number: 14206US03	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(d), filed January 3, 2011. Patentees believe that they should be accorded additional PTA of 1 day due to the Office not issuing the patent within three years.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment is **DISMISSED**.

On November 2, 2010, the instant application matured into U.S. Patent No. 7,826,818 with a patent term adjustment of one thousand one hundred eighty-nine (1189) days. The Office determined a patent term adjustment of 1189 days based upon 627 days of Office delay pursuant to 37 CFR 1.703(a)(1), 22 days pursuant to 37 CFR 1.703(a)(2), and 1111 days pursuant to 37 CFR 1.703(b), reduced by 549 days of Applicant delay pursuant to various instances of delay under 37 CFR 1.704(b) and 1.704(c)(8).

Patentees argues that the Office should have been assessed 1112 days of delay pursuant to 37 CFR 1.703(b), not the 1111 days presently accorded. Patentees' argument has been considered, but is not persuasive. 37 CFR 1.703(b) states, in part:

37 CFR 1.703(b)(1) sets forth, *in toto*:

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

It follows that the proper manner of calculating the RCE-cutoff is to terminate the over three year period on the day before the RCE was filed, since 37 CFR 1.703(b)(1) expressly states that the day on which the RCE was filed is not included in the over three year period.

Accordingly, at issuance, the Office properly entered 1111 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, the correct number of days of patent term adjustment is **one thousand one hundred eighty-nine (1189)** days

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Durham, Jones & Pinegar --
Intellectual Property Law Group
P.O. Box 4050
Salt Lake City UT 84110

MAILED

AUG 11 2011

OFFICE OF PETITIONS

In re Application of :
William J. Boyer, Jr. :
Application No. 10/657,816 :
Filed: September 8, 2003 :
Attorney Docket No. 29046.3002US01 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed April 3, 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 5, 2007. A Notice of Abandonment was mailed on February 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. 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 3627 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 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

DURHAM, JONES & PINEGAR –
INTELLECTUAL PROPERTY LAW GROUP
PO BOX 4050
SALT LAKE CITY, UT 84110

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of :
Robert Ray Hanson :
Application No. 10/657,822 : DECISION ON PETITION
Filed: September 8, 2003 :
Attorney Docket No. 29046.3000US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 16, 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 April 17, 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) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY LAW GROUP
PO BOX 4050
SALT LAKE CITY, UT 84110

MAILED

AUG 23 2011

OFFICE OF PETITIONS

In re Application of	:	
William J. Boyer, Jr. et al.	:	
Application No. 10/657,823	:	DECISION ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. 29046.3001US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 25, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 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 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 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 3689 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 2011.

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
OCT 19 2011
OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

In re Patent No. 6,892,778	:	
Issued: May 17, 2005	:	
Application No. 10/657,886	:	ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. HO-P02832US0	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 23, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Derrick A. Pizarro
112 East Pecan Street, Suite 1800
San Antonio, Texas 78205-1536

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Chiba et al.	:	DECISION
Application No. 10/657,910	:	ON APPLICATION FOR
Filed: Setpember 9, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. EISN-018CPRCE	:	
Title: MACROCYCLIC COMPOUNDS	:	
USEFUL AS PHARMACEUTICALS	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed January 19, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least five hundred and thirty-one (531) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicants contend that a single period of applicant delay was miscalculated.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that Applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **DISMISSED**.

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[1] For example, if Applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then Applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

37 C.F.R. § 1.704(b) sets forth, *in pertinent part*:

> "With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(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 three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed."

A non-final Office action was mailed on January 26, 2005, and a response was received three months and 97 days later on August 1, 2005. As such, the Office assessed a reduction of 97 days pursuant to 37 C.F.R. § 1.704(b).

In the "STATEMENT UNDER 37 CFR § 1.705(b)(2)," that was submitted concurrently with this petition (page 4, section B), Applicants argue "a response to the Office action mailed on January 26, 2005 was sent to the Office on July 26, 2005,[2] and not on August 26, 2005[3] as is indicated on the PAIR PTA sheet. Accordingly, Applicants thereby incurred a delay of 91 days." The undersigned has reviewed the response that was received on August 1, 2005, and it is noted that it contains a certificate of mailing dated July 26, 2005.

Applicants' argument has been considered, and has been deemed to be unpersuasive. Applicants' attention is directed to 37 C.F.R. § 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, since the 37

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[2] The Office notes that July 26, 2005 is three months and 91 days after the mailing of the non-final Office action.

[3] The Office is construing this to be a typographical error, as the PAIR PTA sheet which Applicants have included with this petition indicates that the response was received on August 1, 2005, and not August 26, 2005.

C.F.R. § 1.8 exception to 37 C.F.R. § 1.6(a) does not apply to patent term adjustment calculations, for the purposes of calculating patent term adjustment, the controlling date for a paper that is physically mailed via the First Cass Mail service of the USPS is the date on which the paper is received in the Office.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicants are reminded that any delays by the Office 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 is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

MAILED

JUN 16 2011

OFFICE OF PETITIONS

NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Patent No. 7,915,306	:	DECISION ON REQUEST
Chiba et al.	:	FOR
Issue Date: March 29, 2001	:	RECONSIDERATION OF
Application No. 10/657,910	:	PATENT TERM ADJUSTMENT
Filed: September 9, 2003	:	and
Atty Docket No. EISN-018CPRCE	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 31, 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 at least four hundred and ninety (490) 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 twenty-four (524) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 10, 2006 and ends on October 22, 2009, the day before the RCE was filed, which amounts to 1139 (not 935[1]) days. See U.S.C. 154(b)(1)(B)(i).

Moreover, a notice of appeal was filed on May 7, 2009, and a Request for Continued Examination (RCE) was filed on October 23, 2009. The 170 days of the over three year period consumed by

[1] Petition, page 2.

appellate review, beginning on May 7, 2009 and ending on October 22, 2009, the day before the RCE was filed, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 524 (183 days of examination delay plus 1139 "B-delay" minus the aforementioned excluded 170 days minus 628 days of Applicant delay) days, not 525 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.

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 and twenty-four (524) days.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries 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

cc: Brian C. Trinque
Lathrop & Gage, LLP
28 State Street
Boston, Massachusetts 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,915,306 B2

DATED : **March 29, 2001** **DRAFT**

INVENTOR(S) : Chiba 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 525 days

Delete the phrase "by 525 days" and insert – by 524 days--

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED
MAR 06 2012
OFFICE OF PETITIONS

In re Patent No. 7,275,217	:	
Issue Date: September 25, 2007	:	
Application No. 10/658,362	:	NOTICE
Filed: September 8, 2003	:	
Attorney Docket No. **WT-0024	:	

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,487	09/08/2003	Avishai Haim Hochberg	SJO920030060US1	2013

33224 7590 09/20/2011
INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95120-6099

EXAMINER
ELMORE, STEPHEN C

ART UNIT	PAPER NUMBER
2185	

NOTIFICATION DATE	DELIVERY MODE
09/20/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sjiplaw@us.ibm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE CA 95120-6099

In re Application of: HOCHBERG et al.	)	
Application No. 10/658,487	)	Petition under 37 CFR 1.324
Patent No. **7117322**	)	
Attorney Docket No. **SJO920030060US1**	)	
Filed: September 8, 2003	)	
For: **METHOD, SYSTEM, AND PROGRAM**	)	
FOR RETENTION MANAGEMENT AND	)	
PROTECTION OF STORED OBJECTS	)	

In view of the papers and petition filed June 20, 2007, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.324. The inventorship of this application has been changed by adding " Alan L. Stuart" as co-inventor, such that the current inventorship is now
Avishai H. Hochberg (San Jose, CA); Toby Lynn Marek (Santa Clara, CA); David Maxwell Cannon (Tucson, AZ); Howard Newton Martin (Tucson, AZ); Donald Paul Warren Jr. (Tucson, AZ); Mark Alan Haye (Tucson, AZ); Alan L. Stuart (Scarsdale, NY).

The petition has been **Granted**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Inquiries to this decision may be directed to undersigned at (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

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STORM LLP
BANK OF AMERICA PLAZA
901 MAIN STREET, SUITE 7100
DALLAS TX 75202

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
EMANUEL, George :
Application No. 10/658,569 : DECISION ON PETITION
Filed: September 09, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. **KSY 02655 PTUS** : 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 23, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by George Emanuel attesting 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 Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3752 for action on the merits commensurate with this decision.

Michelle R. Eason
Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
Frank et al. :
Application No. 10/658,578 :
Filed: September 9, 2003 :
Attorney Docket No. 14181US02 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the paper filed August 23, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(b) requesting the initial determination of patent term adjustment be corrected from eight hundred ninety (890) days to two thousand two hundred sixty-one (2,261) days.

The application for patent term adjustment is **dismissed**.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on July 9, 2010, advising Applicants of a patent term adjustment to date of 890 days. In response, Applicants timely filed this application for patent term adjustment on August 23, 2010, prior to the submission of the issue fee on September 30, 2010.

The patent term adjustment determination of 890 days mailed with the Notice of Allowance consists of 892 days of delay under 37 C.F.R. § 1.703(a)(1) reduced by 2 days of delay under 37 C.F.R. § 1.704(b).

Applicants assert the correct patent term adjustment is 2,261 days, which is the sum of 892 days of delay under 37 C.F.R. § 1.703(a)(1) and 1,592 days of delay under 37 C.F.R. § 1.703(b) reduced by 223 days of overlap between the two periods of Office delay.

Delay Under 37 C.F.R. § 1.703(b)

To the extent applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the request is 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 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE)

was filed). The computer will not undertake the 37 C.F.R. § 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 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 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 C.F.R. § 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.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant 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 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Delay Under 37 C.F.R. § 1.704(b)

Applicants assert the Office's entry of a 2-day reduction for delay under 37 C.F.R. § 1.704(b) was improper.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n 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

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 1.705(b) and 35 U.S.C. § 154(b)(3)(B). A dispute as to the calculation of the 37 C.F.R. § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(d) will be dismissed as untimely filed.

> time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

The Office mailed a non-final Office action on October 5, 2007, which set a shortened statutory period for reply of three (3) months. Applicants filed a reply on Monday, January 7, 2007. Applicants argue a reduction in patent term adjustment is not warranted for delay in filing the reply because the due date to file a reply fell on a Saturday and January 7, 2007, was the first succeeding day that was not a Saturday, Sunday, or a Federal holiday.

37 C.F.R. § 1.7(a) states,

> When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday.

The Office recognizes, pursuant to 37 C.F.R. § 1.7(a), the due date for a reply to the October 5, 2007 Office action was shifted to Monday, January 7, 2007, absent payment for an extension of time. However, the due date for a reply to a notice or Office action is irrelevant when applying the provisions of 37 C.F.R. § 1.704(b). Specifically, 37 C.F.R. § 1.704(b) states, "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."

Pursuant to 37 C.F.R. § 1.7(a), the January 7, 2007 reply was a timely response to the prior Office action. However, the fact a reply is timely does not precluded a reduction under 37 C.F.R. § 1.704(b). For example, if an Office action sets forth a shortened statutory period for reply of 3 months, and a reply is filed 3 months and 75 days later with payment for a with payment for a three-month extension of time, a 75-day reduction will be warranted under 37 C.F.R. § 1.704(b) even though the reply is timely.

In view of the prior discussion, the Office's entry of a 2-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) was proper.

Conclusion

The initial patent term adjustment remains 890 days, which is 892 days of delay under 37 C.F.R. § 1.703(a)(1) reduced by 2 days of delay under 37 C.F.R. § 1.704(b).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Applicants are reminded any delays by the Office 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 is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

MAILED

JAN 03 2011

OFFICE OF PETITIONS

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,543,280	:	DECISION ON REQUEST
Rosenthal et al.	:	FOR
Issue Date: June 2, 2009	:	RECONSIDERATION OF
Application No. 10/658,593	:	PATENT TERM ADJUSTMENT
Filed: September 8, 2003	:	and
Atty Docket No. 09700.0075-00	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on June 25, 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 one thousand and seven (1007) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand and seven (1007) 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. 10/658,593 matured into U.S. patent no. 7,543,280 on June 2, 2009, with a patent term adjustment of 717 days.

The Office agrees with Patentee's assertion that examination delay totals 823 days, applicant delay totals 106 days, the period of "B-delay" totals 444 days, and 154 days overlap.

It follows that the patent term adjustment is 1007 (823 - 106 + 444 - 154) 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 **one thousand and seven (1007)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,543,280 B2

DATED : **June 2, 2009** **DRAFT**

INVENTOR(S) : Rosenthal 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 717 days

Delete the phrase "by 717 days" and insert – by 1007 days--

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.
10/658,740	09/10/2003	J. David Sandoval	25403	3391

7590 03/23/2011

Jon C. Gealow
2903 N. Bayview Lane
McHenry, IL 60051-9629

EXAMINER
ALMATRAHI, FARIS S

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
03/23/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAR 23 2011

Jon C. Gealow
2903 N. Bayview Lane
McHenry, IL 60051-9629

In re Application of	:	
J. David Sandoval	:	SUA SPONTE DECISION
Application No. 10/658,740	:	TO WITHDRAW THE HOLDING
Filed: September 10, 2003	:	OF ABANDONMENT
For: MANAGING AND ACCOUNTING	:	
FOR SHIPPING STRUCTURES	:	

A sua sponte review of the above-noted application file has been conducted. As a result, it has been determined that certain errors on the part of the Office have occurred. In particular, it has been determined that the holding of abandonment on May 26, 2010 was premature. The purpose of this communication is to correct this error and clarify the record.

A review of the file history indicates that the examiner held the application abandoned for applicant's failure to timely file a proper reply to the final Office action mailed on November 17 2009. However, the Office did receive a response from the applicant on May 21, 2010 with a certificate of mailing dated May 17, 2010. The applicant's response included the appropriate three month extension of time and fee. Therefore, applicant's response did constitute a "proper reply" and the holding of abandonment on May 26, 2010 was incorrect and premature.

Accordingly, the holding of abandonment is hereby **VACATED**.

Any questions regarding this decision should be directed to Supervisory Patent Examiner F. Ryan Zeender at (571) 272-6790.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5150

FZ: 3/18/11
LM

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED
SEP 23 2011
OFFICE OF PETITIONS

In re Patent No. 6,990,976	:	
Issue Date: 01/31/2006	:	
Application No. 10/658,744	:	DECISION ON PETITION
Filed: 09/10/2003	:	
Attorney Docket No. 031145	:	

This is a decision on the petition under 37 CFR 1.182, filed September 16, 2011, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is GRANTED.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person or Kimberly Terrell, Office of Data Management at (571) 272-4200.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person, 2800 S. Randolph Street, Room D-30-A (FAX 571-270-9764)
Kimberly Terrell, 2800 S. Randolph Street, Room D-33 (FAX 571-270-9958)

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Alexandria, VA 22313-1450
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MICHAEL A. NELSON
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14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

MAILED
JAN 20 2011
OFFICE OF PETITIONS

In re Application of :
TOWLER, MATTHEW :
Application No. 10/658,992 :
Filed: 09/10/2003 :
Attorney Docket No. 7443 US :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 18, 2010. A Notice of Abandonment was mailed on October 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 payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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December 2, 2010

Patent No. : 7,060,627 B2
Appl. No. : 10/659,042
Inventor(s) : Micha Gutman, et al.
Issued : June 13, 2006
Title : **METHOD OF DECREASING CHARGING EFFECTS IN OXIDE-NITRIDE-OXIDE (ONO) MEMORY ARRAYS**
Docket No. : **TSL-124**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BEVER HOFFMAN & HARMS, LLP
901 Campisi Way
Suite 370
Campbell CA 95008

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BEVER, HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,060,627 :
Issue Date: June 13, 2006 :
Application No. 10/659,042 : ON PETITION
Filed: September 9, 2003 :
Attorney Docket No. TSL-124 :

This is a decision on the petition filed December 21, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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MAMOUD SADRE
UNIT # 203
165 TREMONT STREET
BOSTON, MA 02111

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Mamoud Sadre	:	
Application No. 10/659,517	:	ON PETITION
Filing: September 11, 2003	:	
Title of Invention: RISK MANAGEMENT FOR MANUFACTURING	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 11, 2003, 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 by the applicant 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 the undersigned at 571-272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application file is being referred to the Technology Center AU 2121.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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ANTHONY D. OSEGUERA
1099 ROGGE ROAD
SALINAS CA 93906-1305

MAILED
MAR 1 2 2012
OFFICE OF PETITIONS

In re Patent No. 6,974,017	:	
Issue Date: December 13, 2005	:	
Application No. 10/659,603	:	ON PETITION
Filed: September 9, 2003	:	
For: TOTE CONVEYING APPARATUS AND METHOD	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 27, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 14, 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 maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6900983
Issue Date: May 31,2005
Application No. 10659669
Filed: September 10,2003
Attorney Docket No. 72701CON1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 11,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6900983	2005-05-31	10659669	2003-09-10	09813970-1809

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	/Timothy M Nitsch/	Date (YYYY-MM-DD)	2011-04-11
Name	Timothy M. Nitsch	Registration Number	58019

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MAILED
SEP 27 2010
OFFICE OF PETITIONS

ELAN DRUG DELIVERY, INC. C/O FOLEY & LARDNER
3000 K STREET, N.W.
SUITE 500
WASHINGTON DC 20007-5109

In re Patent No. 7,713,551	:	DECISION ON REQUEST
McGurk et al.	:	FOR
Issue Date: 05/11/2010	:	RECONSIDERATION OF
Application No. 10/659,706	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/11/2003	:	
Atty Docket No.	:	
029318-0968	:	

This is a decision on the petition filed on June 16, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred seventy-eight (578) 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 four hundred twenty-eight (428) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 12, 2006, and ends on August 16, 2007, the day before the RCE was filed, and is 339 days. See 35 U.S.C. 154(b)(1)(B)(i). Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On March 20, 2007, a notice of appeal was filed. On August 17, 2007, the RCE was filed. Accordingly, the excluded period for appeal is 150 days, and the "B" delay period is 189 (339 – 150) days.

Petitioners' argument that there should be no reduction for appellate review because "there was no appellate review by the Board; no Brief on Appeal was ever filed," has been considered, but is not persuasive. In this regard, 37 CFR 1.703(b)(4) states:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and

> ending on the date a patent was issued, but not including the sum of the following periods: The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

It is undisputed that on March 20, 2007, a notice of appeal was filed. Further, the RCE was filed on August 17, 2007, prior to the date of mailing of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. Accordingly, the period from the filing of the notice of appeal on March 20, 2007, until the day prior to the filing of the date the RCE was filed is excluded from the calculation of the period of adjustment under § 1.702(b).

Accordingly, no change will be made to the patent term adjustment of 428 (437 days Office delay + 189 days three years delay – 198 days of applicant delay) days indicated on the face of the issued patent.

Further, it is noted that although a fee was submitted with the petition filed on December 28, 2009, a separate $200.00 fee as set forth in 37 CFR 1.18(e) is required for the subject petition under 37 CFR 1.705(d). The fee is being charged to counsel's deposit account.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Linton :
Application No. 10/659,997 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No. CVAC-001/00US :
313579-2010
For: METHOD AND APPARATUS FOR CYCLIC VARIATIONS IN ALTITUDE CONDITIONING

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action, mailed March 9, 2010, which set an extendable three month period for reply. Applicant submitted a petition for a three month extension of time and required fee and an improper Request for Continued Examination (RCE) on September 9, 2010. Accordingly, this application became abandoned on September 10, 2010. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicant has submitted a RCE, the required $405.00 fee, and a submission in reply to the March 9, 2010 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 9, 2010 final Office action, and the $810.00 petition fee.

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.

After the mailing of this decision the application will be forwarded to Technology Center AU 3715 for consideration of the RCE filed on October 7, 2010.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/20/11

TO SPE OF : ART UNIT 2444

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/660,303 Patent No. 7,606,887

CofC mailroom date 12/14/10

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/William C. Vaughn, Jr./

SPE

2444

Art Unit

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON DC 20005-3096

MAILED
NOV 29 2010
OFFICE OF PETITIONS

In re Patent No. 7,514,100	: ON PETITION
Oshlack et al.	: UNDER 37 CFR 1.181, 1.182, 1.183
Issue Date: April 7, 2009	: and
Application No. 10/660,349	: ON APPLICATION FOR
Filed: September 11, 2003	: PATENT TERM ADJUSTMENT
Attorney Docket No. 085742-0010	:

This is a decision on the "PETITION UNDER 37 CFR 1.182", filed July 21, 2010, and on the "PETITION UNDER 37 CFR 1.181", "PETITION UNDER 37 CFR 1.183", and on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705", all filed July 22, 2010, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA").

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.

Your petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,514,100 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, inter alia, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A), 75 Fed. Reg. 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept any requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. §154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA

determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND AVE.
SUITE 1100
HOUSTON TX 77042

MAILED
FEB 07 2012
OFFICE OF PETITIONS

In re Application of :
Bertelrud et al. :
Application No. 10/660,353 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No. 2095.001100/P3126 :
For: PREDICTIVELY PROCESSING TASKS
FOR BUILDING SOFTWARE

This is a decision on the petition, filed January 6, 2012, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the May 25, 2011 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on August 26, 2011. A Notice of Abandonment was mailed on December 16, 2011.

Applicants have submitted an amendment in reply to the May 25, 2011 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 25, 2011 non-final Office action, and the $1,860.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2197 for consideration of the amendment filed on January 6, 2012.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CHRISTOPHER P. MAIORANA, P.C.
24840 HARPER SUITE 100
ST. CLAIR SHORES MI 48080

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of :
Mark F. KELCOURSE :
Application No. 10/660,355 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No. 8822.90044 / 17988 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 16, 2009, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on June 17, 2009.

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 payment of the Issue Fee and Publication Fee; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee and Publication Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to the Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED
JUN 28 2011
OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

In re Patent No. 7,056,558	:	
Issue Date: June 6, 2006	:	
Application No. 10/660,363	:	NOTICE
Filed: September 10, 2003	:	
Patentee(s): Paul W. Daniels, et. al.	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on May 11, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHEVRON CORPORATION
P.O. BOX 6006
SAN ROMON, CA 94583-0806

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Application of :
Jesse Meyer et al :
Application No. 10/660,948 :
Filed: September 12, 2003 :
Attorney Docket No. T-5979 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 22, 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). Three month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 the submission required by 37 CFR 1.114; (2) the petition fee of $1620 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1771 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed September 8, 2011 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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Workman Nydegger/Smith Micro Software, Inc.
60 East South Temple
1000 Eagle Gate Tower
Salt Lake City UT 84111

MAILED
MAR 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,133,687	:	
Issued: 11/07/2006	:	
Application No. 10/661,033	:	NOTICE
Filed: 09/12/2003	:	
Attorney Docket No. 15814.11.1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 18, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MEDIA RIGHTS TECHNOLOGIES C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 10/21/2010

Applicant	: Hank Risan	: DECISION ON REQUEST FOR
Patent Number	: 7584353	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/661,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1175** 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)
7080750	2006-07-25	10661053	2003-09-12	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/RALPH E. LOCHER/	Date (YYYY-MM-DD)	2010-11-22
Name	RALPH E. LOCHER	Registration Number	41947

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. 7080750
Issue Date: July 25,2006
Application No. 10661053
Filed: September 12,2003
Attorney Docket No. W1036/20013

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

PATENT DEPT
INTUITIVE SURGICAL OPERATIONS, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Jaime Salvador Vargas	:	DECISION ON PETITION
Application No. 10/661,159	:	
Filed: September 12, 2003	:	
Atty Docket No. ENDOV-001/US	:	

This is in response to the petition to withdraw the holding of abandonment filed March 24, 2010. Alternatively, applicant requests consideration of the petition under 37 CFR 1.137(a) or (b) as appropriate. This decision is made in light of the supplement to petition (requested by the undersigned) filed June 15, 2010.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**. Consideration of the petition under 37 CFR 1.137(a) is unnecessary.

The above-identified application became abandoned for failure to file a response to the Notice of Non-Compliant Amendment mailed November 17, 2009. This Office communication set a one-month period for reply. No extensions of time under § 1.136(a) were obtained. As no response was received, the application became abandoned effective December 18, 2009. A courtesy Notice of Abandonment was mailed on February 19, 2010.

In response, applicant filed the instant petition. Applicant requests withdrawal of the holding of abandonment on the basis that the Notice was never received. Alternatively, applicant requests revival of the application pursuant to 37 CFR 1.137(a) or (b), as appropriate.

A review of the application image file wrapper reveals no irregularities in the mailing of the Notice mailed November 17, 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 Notice, applicant must submit evidence to overcome this presumption. As stated in MPEP 711.03(c), the following showing is required:

> 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.

Practitioner states that the Office action was not received by the practitioner and that a search of the file jacket and docket

records indicates that the correspondence was not received. Practitioner supplies a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

The showing is not sufficient. Practitioner describes the system used for recording an Office action received at the correspondence address of record with the USPTO. However, practitioner does not provide a copy of a master docket record. Rather, practitioner states that to the best of his information and belief, the docketing system does not provide a "master docket for the firm" for a particular date range in any usable form. Thus, practitioner attempts to make the showing based on the individual docketing record for this application.

Fundamental to the showing is the reliability of the electronic entries in the docketing system. Practitioner acknowledges that there is an unexplained notation by the computer system of an update to the record on November 24, 2009. This update does not correlate to an actual entry in the record. This update without an explanation correlation in the record of the application suggests an omission in the electronic entries in the docketing record. Of significance, this automated computerized notation of an update to the record, reflection an omission, is made a week after the mailing of the Notice in question. These circumstances raise a question as to the receipt of this Notice at the correspondence address of record. Thus, even if a copy of the master docket record were supplied, on the showing presented, the petition would not be granted.

Given the deficiencies in the showing, it is concluded that the required showing of non-receipt has not been met.

Nonetheless, applicant has met the requirements for revival under 37 CFR 1.137(b). The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 3736 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the amendment submitted on petition filed March 24, 2010.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7332277	2008-02-19	10661165	2003-09-11	543312000420

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael J. Cronin/	Date (YYYY-MM-DD)	2012-03-29
Name	Michael J. Cronin	Registration Number	61196

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. 7332277
Issue Date: February 19,2008
Application No. 10661165
Filed: September 11,2003
Attorney Docket No. 543312000420

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 29,2012 ,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 29,2012 .
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

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 08/04/2010

Applicant	: Partha Bhattacharya	: DECISION ON REQUEST FOR
Patent Number	: 7644365	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/661,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1217** 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)
7238295	2007-07-03	10661662	2003-09-15	ID 028811

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	/SMG/	Date (YYYY-MM-DD)	2011-09-02
Name	Steven M. Gruskin	Registration Number	36818

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7238295
Issue Date: July 3,2007
Application No. 10661662
Filed: September 15,2003
Attorney Docket No. 242866US0

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 2,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 2,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NUTTER MCCLENNEN & FISH, LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Patent No. 7,158,545 :
Issue Date: January 2, 2007 :
Application No. 10/661,831 : NOTICE
Filed: September 12, 2003 :
Patentee(s): Qing Hu, et. al. :

This is a Notice regarding your communication under 37 CFR 1.28(c) filed on January 10, 2011, for acceptance of a fee deficiency submission.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**[1]. Therefore, status as a small entity has been removed and any future fee submitted must be paid at the large entity rate.

Since the address given in the present request differs from the correspondence address of record, a courtesy copy of this Notice is being mailed to the address given in the request. Thereafter, all future communications regarding this patent will be mailed solely to the fee address of record until otherwise instructed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Daniel O'Brien
Massachusetts Institute of Technology
Five Cambridge Center, Kendall Square
Room NE25-230
Cambridge, MA 02142-1493

[1] The Office acknowledges receipt of a Statement under 37 CFR 3.73(b) received on January 10, 2011.

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)
7,025,521	2006-04-11	10/661,995	2003-09-12	5300/0155PUS1

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	/Joe McKinney Muncy/	Date (YYYY-MM-DD)	2011-07-05
Name	Joe McKinney Muncy	Registration Number	32334

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7025521
Issue Date: April 11,2006
Application No. 10661995
Filed: September 12,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 5,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 5,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KANE & CO., PLC
29 PEARL ST. NW
410 FEDERAL SQUARE BUILDING
GRAND RAPIDS, MI 49503

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Application of
Eric S. Toth et al
Application No. 10/662,150
Filed: September 12, 2003
Attorney Docket No. 2003.008

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 10, 2006, 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** final agency action within the meaning of 5 U.S.C. § 704.

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(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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 20, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/662,150	Applicant(s) TOTH ET AL.	
	Examiner Dennis H. Pedder	Art Unit 3612	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-36*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet comments.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Dennis H. Pedder/
Primary Examiner, Art Unit 3612
2/3/2011

Continuation of 3. NOTE: The proposed reply of 10/10/2006, while referencing the indication of allowability in the office action of 1/3/2005 does not conform to the claims as set forth on 9/12/2003 nor does it conform to the claims of 7/5/2005, which had no indicated allowable subject matter. Therefore any amendment submitted anew requires further consideration.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

EMERY L. TRACY
P.O. BOX 1518
BOULDER CO 80306

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey A. HAMILTON, et al	:	
Application No. 10/662,182	:	DECISION ON PETITION
Filed: September 12, 2003	:	
Docket No. E008.PAT-1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 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, January 5, 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 April 6, 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) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : September 2, 2011

TO SPE OF : ART UNIT _____

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/662465 Patent No.: 7969857

CofC mailroom date: 8-15-11

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

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE _____ **Art Unit** 2491

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MALDJIAN LAW GROUP LLC
36 BINGHAM AVENUE
RUMSON, NJ 07760

MAILED
AUG 11 2011
OFFICE OF PETITIONS

In re Application of	:	
S, et al.chin Garg, et al.	:	
Application No.: 10/662,724	:	ON PETITION
Filed: September 15, 2003	:	
Attorney Docket No.: 503027-A-US-NP(ABG)(A063)	:	

This is a decision on the petition, filed August 11, 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 July 1, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Sep-10

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

SEP 20 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Williams et al. :
Application Number: 10/662757 :
Filing Date: 09/15/2003 :
Attorney Docket Number: 9362-3 :
:

This is a decision in response to the petition under 37 CFR 1.137(b) filed on June 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 28, 2010, as a result of the expiration of the period for seeking review of the Board of Patent Appeals and Interferences Decision (Board Decision) rendered on January 27, 2010. As a result of the Board Decision, there were no allowed claims. Notice of Abandonment was mailed on April 13, 2010.

Receipt of the Request for Continued Examination and submission under 37 CFR 1.114 is acknowledged.

The application is being referred to Technology Center Art Unit 1715 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,923,216	: DECISION ON PATENT TERM
Issued: April 12, 2011	: ADJUSTMENT and NOTICE OF INTENT
Application No. 10/662,808	: TO ISSUE CERTIFICATE OF
Filed: September 16, 2003	: CORRECTION
Dkt. No.: 03495.0174-02000	:

This is a decision on the petition filed on April 13, 2011 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1521 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 1521 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1521 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,923,216

DATED : April 12, 2011 **DRAFT**

INVENTOR(S) : Roux, 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 1401 days

Delete the phrase "by 1401 days" and insert – by 1521 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)
7,134,574	2006-11-14	10/662,843	2003-09-15	

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.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Richard Braunstein/	Date (YYYY-MM-DD)	2011-04-15
Name	Richard Braunstein		

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. 7134574
Issue Date: November 14,2006
Application No. 10662843
Filed: September 15,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 15,2011 ,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 15,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Ajith N. Nair, et al.	:	
Application No. 10/663,037	:	DECISION GRANTING PETITION
Filed: September 15, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
60374.0007US01/CPOL968414		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 21, 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 September 2, 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 2423 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application of :
Ajith N. Nair et al :
Application No. 10/663,037 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. RESOURCE-ADAPTIVE MANAGEMENT OF VIDEO STORAGE

This is a decision on the petition, filed March 7, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 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 2423 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110118

DATE : January 18, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7053230

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 15, 2010

TO SPE OF : ART UNIT 2454
SUBJECT : Request for Certificate of Correction for Appl. No/10/663325 -7552195

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

/Joseph E. Avellino/ 2454
SPE **Art Unit**

Deleted:

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

GEORGE S. LEVY
3980 DEL MAR MEADOWS
SAN DIEGO CA 92130

MAILED
FEB 16 2012
OFFICE OF PETITIONS

In re Patent No. 7,287,356 :
Issue Date: October 30, 2007 :
Application No. 10/663,419 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. Sac030801 :

This is a decision on the petition under 37 CFR 1.378(c), filed December 1, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 31, 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 maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

FRANK ABRAMONTE
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC,
701 5TH AVENUE, SUITE 5400
SEATTLE, WASHINGTON 98104

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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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH, PA 15222-2613

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of

John A. GLADYSZ, et *al.*
Application No. 10/664,105
Filed: September 17, 2003
Attorney Docket No. **030557**

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 November 3, 2010.

The request is **NOT APPROVED.**

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. 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 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. Also, 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.***

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Sandra M. MacLean	:	
Application No. 10/664,236	:	DECISION ON PETITION
Filed: September 17, 2003	:	
Attorney Docket No. 11842/US/2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3761 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

In re Patent No. 7271677
Issue Date: September 18,2007
Application No. 10664363
Filed: September 22,2003
Attorney Docket No. 355

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 7,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7271677	2007-09-18	10664363	2003-09-22	355

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	/Don W. Weber/	Date (YYYY-MM-DD)	2011-11-08
Name	Don W. Weber	Registration Number	32321

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/2/09

TO SPE OF : ART UNIT 2183 Chan Eddie (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/664384 Patent No.: 7366877

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

2183
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/12/11

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No.: 10664423 Patent No.: 7655460

CofC mailroom date: 07/06/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note:

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The proposed changes to the sequence listing and claims could constitute new matter and would require re-examination. As such is the case the proposed changes are not suitable for a certificate of correction; see 35 USC 255 and 37 CFR 1.323

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Daniel E. Kolker/
Acting SPE, Art
Unit 1649

SPE **Art Unit**

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Date Mailed : 09/27/11

Patent No. : 7655460 B2
Patent Issued : 02/02/10
Docket No. : **GOUD:023USD2**

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 07/06/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

Michael R. Krawzsenek
Fulbright & Jaworski L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/12/11

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No.: 10664423 Patent No.: 7655460

CofC mailroom date: 07/06/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The proposed changes to the sequence listing and claims could constitute new matter and would require re-examination. As such is the case the proposed changes are not suitable for a certificate of correction; see 35 USC 255 and 37 CFR 1.323

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Daniel E. Kolker/
Acting SPE, Art
Unit 1649

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **4-5-12**

TO SPE OF : ART UNIT **1788**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10664429** Patent No.: **8080300**

CofC mailroom date: 3-27-12

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 – 9D40-E
Palm Location 7580

Note:

Omega Lewis

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

/Alicia Chevalier/ 1788

SPE Art Unit

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application :
Jonathan Fanger et al. :
Application No. 10/664,575 : DECISION ON APPLICATION
Filed: September 17, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **DEP5150USCIP1** :

This is in response to the APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE filed August 17, 2010. Applicant requests that the determination of patent term adjustment be corrected from 464 days to 1133 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).

To the extent that this 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 patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, 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.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On May 17, 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 464 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants do not dispute 442 days of Examination delay and 25 days of Applicant delay. However, with respect to the patent term adjustment at the time of the mailing of the notice of allowance, Applicants argue that the patent term adjustment of 464 days included with the Notice of Allowance, based on PAIR, appears to be attributable to "A delay". No "B delay" or "C delay" was identified. Applicant considers the PAIR "A delay" calculation of 464 days to be 157 days more than Applicant is entitled to and that Applicant is entitled to 803 days of"B delay" adjustment and 23 days of"C delay" adjustment.

Applicants argue that in response to a Final Office Action mailed on November 17, 2006, they filed an amendment on January 16, 2007 under 37 C.F.R. § 1.116 and further, in response to an Advisory Action mailed March 20, 2007, on March 20, 2007, filed a Notice of Appeal, along with a Request for Extension of Time for one month. Applicants argue that the period of delay between when the statutory period of three months expired and when the Notice of Appeal was filed was 31 days in accordance with 37 CFR 1.704.

[1] PALM records indicate that the issue fee was paid on August 17, 2010.

In this instance, as the amendment filed January 16, 2007 was not in compliance with § 1.113(c), the period for reply to the final rejection continued to run. The proper reply, a Notice of Appeal, was not received in the Office until March 20, 2007. The filing of the Notice of Appeal on March 20, 2007 is considered a failure to engage under 1.704(c)(8). Pursuant to § 1.704(b), the patent term adjustment should have been reduced by 31 days for applicant delay from February 17, 2007 to March 20, 2007, the date of filing of a reply in compliance with §1.113(c). In view thereof, since the Office Action mailed July 2, 2007 was mailed within 4 months of the filing date of the notice of appeal on March 20, 2007, the 47 day delay accorded the Office was incorrect.

Applicants argue further that after the filing of the Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) on February 16, 2010, a Supplemental IDS was filed on May 6, 2010 and thus Applicants should have received a reduction in the amount of 79 days.

Applicant's arguments have been considered. 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 second IDS on May 6, 2010 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.

Finally, in view of the successful appeal decision by the Board of Patent Appeals and Interferences, Applicants argue an entitlement to a patent term adjustment of 23 days for the period from the filing of the notice of appeal on March 20, 2007 to the date of the pre-appeal panel decision on April 11, 2007. In view of the Pre-Appeals Conference Decision of April 11, 2007 which withdrew the Final Office Action mailed November 17, 2006 and issued a non-Final Office Action, the amendment filed January 16, 2007 was treated as if filed after non-Final. In such case the subsequent Notice of Appeal is <u>not</u> treated as a supplemental reply given that it was required by the improper Final OA thus, the Notice of Appeal filed on March 20, 2007 does not put PTA time "on hold" and the calculation for the period from March 20, 2007 to the date of the Pre-Appeals Conference Decision of April 11, 2007 in the amount of 23 days, should have been attributed to the Office for Examination delay.

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 330 days (442+23 Examination delay days minus 25+31+79 Applicant delay days)

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 10-0750.

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 the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application
Jonathan Fanger et al.
Application No. 10/664,575
Filed: September 17, 2003
Attorney Docket No. **DEP5150USCIP1**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE filed August 17, 2010. Applicant requests that the determination of patent term adjustment be corrected from 464 days to 1133 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).

To the extent that this 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 patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, 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.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On May 17, 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 464 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants do not dispute 442 days of Examination delay and 25 days of Applicant delay. However, with respect to the patent term adjustment at the time of the mailing of the notice of allowance, Applicants argue that the patent term adjustment of 464 days included with the Notice of Allowance, based on PAIR, appears to be attributable to "A delay". No "B delay" or "C delay" was identified. Applicant considers the PAIR "A delay" calculation of 464 days to be 157 days more than Applicant is entitled to and that Applicant is entitled to 803 days of"B delay" adjustment and 23 days of"C delay" adjustment.

Applicants argue that in response to a Final Office Action mailed on November 17, 2006, they filed an amendment on January 16, 2007 under 37 C.F.R. § 1.116 and further, in response to an Advisory Action mailed March 20, 2007, on March 20, 2007, filed a Notice of Appeal, along with a Request for Extension of Time for one month. Applicants argue that the period of delay between when the statutory period of three months expired and when the Notice of Appeal was filed was 31 days in accordance with 37 CFR 1.704.

[1] PALM records indicate that the issue fee was paid on August 17, 2010.

In this instance, as the amendment filed January 16, 2007 was not in compliance with § 1.113(c), the period for reply to the final rejection continued to run. The proper reply, a Notice of Appeal, was not received in the Office until March 20, 2007. The filing of the Notice of Appeal on March 20, 2007 is considered a failure to engage under 1.704(c)(8). Pursuant to § 1.704(b), the patent term adjustment should have been reduced by 31 days for applicant delay from February 17, 2007 to March 20, 2007, the date of filing of a reply in compliance with §1.113(c). In view thereof, since the Office Action mailed July 2, 2007 was mailed within 4 months of the filing date of the notice of appeal on March 20, 2007, the 47 day delay accorded the Office was incorrect.

Applicants argue further that after the filing of the Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) on February 16, 2010, a Supplemental IDS was filed on May 6, 2010 and thus Applicants should have received a reduction in the amount of 79 days.

Applicant's arguments have been considered. 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 second IDS on May 6, 2010 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.

Finally, in view of the successful appeal decision by the Board of Patent Appeals and Interferences, Applicants argue an entitlement to a patent term adjustment of 23 days for the period from the filing of the notice of appeal on March 20, 2007 to the date of the pre-appeal panel decision on April 11, 2007. In view of the Pre-Appeals Conference Decision of April 11, 2007 which withdrew the Final Office Action mailed November 17, 2006 and issued a non-Final Office Action, the amendment filed January 16, 2007 was treated as if filed after non-Final. In such case the subsequent Notice of Appeal is <u>not</u> treated as a supplemental reply given that it was required by the improper Final OA thus, the Notice of Appeal filed on March 20, 2007 does not put PTA time "on hold" and the calculation for the period from March 20, 2007 to the date of the Pre-Appeals Conference Decision of April 11, 2007 in the amount of 23 days, should have been attributed to the Office for Examination delay.

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 330 days (442+23 Examination delay days minus 25+31+79 Applicant delay days)

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 10-0750.

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 the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Patent No. 7,935,123
Issued: May 3, 2011
Application No. 10/664,575
Filed: September 17, 2003
Attorney Docket No. **DEP5150USCIP1**

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d) AFTER PATENT ISSUANCE filed July 5, 2011. Applicant requests that the determination of patent term adjustment be corrected from 1301 days to 1270 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 indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **ONE THOUSAND ONE HUNDRED SIXTY-SEVEN (1167)** 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 May 3, 2011, the above-identified application matured into U.S. Patent No. 7,935,123 with a patent term adjustment of 1301 days. On July 5, 2011, Patentees submitted the instant application. Patentees disclose that the patent term adjustment of 1301 days indicated on the front of the patent is incorrect.

Applicants argue that in response to a Final Office Action mailed on November 17, 2006, they filed an amendment on January 16, 2007 under 37 C.F.R. § 1.116 and further, in response to an Advisory Action mailed March 20, 2007, on March 20, 2007, filed a Notice of Appeal, along with a Request for Extension of Time for one month. Applicants argue that the period of delay between when the statutory period of three months expired and when the Notice of Appeal was filed was 31 days in accordance with 37 CFR 1.704.

In this instance, as the amendment filed January 16, 2007 was not in compliance with § 1.113(c), the period for reply to the final rejection continued to run. The proper reply, a Notice of Appeal, was not received in the Office until March 20, 2007. The filing of the Notice of Appeal on March 20, 2007 is considered a failure to engage under 1.704(c)(8). Pursuant to § 1.704(b), the patent term adjustment should have been reduced by 31 days for applicant delay from February 17, 2007 to March 20, 2007, the date of filing of a reply in compliance with §1.113(c). 31 days delay is being entered for Applicant delay.

However, in view thereof, since the Office Action mailed July 2, 2007 was mailed within 4 months of the filing date of the notice of appeal on March 20, 2007, the 47 day delay accorded the Office was incorrect. 47 days delay will be removed from Examination delay.

Applicants argue further that after the filing of the Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) on February 16, 2010, a Supplemental IDS was filed on May 6, 2010 and thus Applicants should have received a reduction in the amount of 79 days.

Applicant's arguments have been considered. 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 second IDS on May 6, 2010 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. Thus 79 days of Applicant delay is being entered.

In the previously filed petition August 17, 2010, applicants argued, in view of the successful appeal decision by the Board of Patent Appeals and Interferences, an entitlement to a patent term adjustment of 23 days for the period from the filing of the notice of appeal on March 20, 2007 to the date of the pre-appeal panel decision on April 11, 2007. The decision mailed March 31, 2011 advised that in view of the Pre-Appeals Conference Decision of April 11, 2007 which withdrew the Final Office Action mailed November 17, 2006 and issued a non-Final Office Action, the amendment filed January 16, 2007 was treated as if filed after non-Final. In such case the subsequent Notice of Appeal is not treated as a supplemental reply given that it was required by the improper Final OA thus, the Notice of Appeal filed on March 20, 2007 does not put PTA time "on hold" and the calculation for the period from March 20, 2007 to the date of the Pre-Appeals Conference Decision of April 11, 2007 in the amount of 23 days, should have been attributed to the Office for Examination delay. 23 days of Examination delay is being entered.

As to the "B" delay, 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 , there are two periods consumed by appellate review, beginning on March 20, 2007 (filing of notice of appeal) to July 2, 2007 (mailing of non-Final Office Action) and from March 27, 2008 (filing of second notice of appeal) to September 4, 2008 (non-final office action issued), which are not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). The Office has also determined that the period of overlap is 21 days. Thus, B delay is 721 days, considering the 21 days of overlap.

As such, the patent term adjustment is 1167 (602 "A delay" days + 721 "B delay" days - 21 days of overlap - 135 Applicant delay days) days, not 1270 days.

The $200.00 fee set forth in 37 CFR 1.18(e) for reconsideration of the Patent Term Adjustment was previously charged to deposit account no. 10-0750 with the decision of the August 17, 2010 petition.

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 the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,935,123 B2

DATED : May 3, 2011

INVENTOR(S) : Jonathan Fanger

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 (1301) days

Delete the phrase "by 1301 days" and insert – by 1167 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,488,343	: DECISION ON REQUEST
Issued: February 10, 2009	: FOR RECONSIDERATION
Application No. 10/664,679	: OF PATENT TERM ADJUSTMENT
Filed: September 16, 2003	: AND
Attorney Docket No. 10527-0462001	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on April 16, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1083 days to 1084 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 eighty-four (1084) days is **GRANTED**.

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 September 16, 2006 and ends on October 30, 2007, the day before the RCE was filed, and the B delay considering the 87 days of overlap is 408. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 321 days. As such, the patent term adjustment is 1084.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand eighty-four (1084)** 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 : 7,488,343 B2

DATED : February 10, 2009

INVENTOR(S) : Barry O'Brien

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 (1083) days

Delete the phrase "by 1083 days" and insert – by 1084 days--

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DAVID W. HIGHET, VP & CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE
MC 110
FRANKLIN LAKES NJ 07417-1880

MAILED
JUL 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Dimitrios MANOUSSAKIS et al	:	
Application No. 10/664,715	:	DECISION ON PETITION
Filed: September 18, 2003	:	
Attorney Docket No. P-5808	:	

This is a decision on the petition, filed May 13, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of December 02, 2010, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before February 02, 2011.

Petitioner request that the Notice of Abandonment mailed on April 25, 2011, be withdrawn. Petitioner asserts that an Appeal Brief along with a five (5) month extension of time as permitted under 37 CFR 1.136 was not due to be filed until May 29, 2011.

A review of the file indicates that an Appeal Brief along with a five (5) month extension of time was not due to be filed in the Office until July 02, 2011. The Office acknowledges the Appeal Brief filed May 31, 2011 along with a four (4) month extension of time which extends the time period to June 02, 2011 which renders the reply timely if received.

Here, the mailing of the Notice of Abandonment by the Primary Examiner in charge of the application is on its face erroneous as to the substance and form. The Office regrets the error. The present application is not in fact abandoned. Patent rules clearly provide for extension of times under 37 CFR 1.136b file to an Appeal Brief. Petitioner has timely filed a four (4) month extension of time and an Appeal Brief. Accordingly, the Notice of Abandonment is withdrawn and the application is restored to pending status.

Telephone inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 1773 for appropriate action in the normal course of business on the Appeal Brief filed May 31, 2011.

Thurman K. Page
Petitions Examiner
Office of Petitions

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SEP 20 2010
OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Gordon G. Guay	:	
Application No. 10/664,818	:	DECISION ON PETITION
Filed: September 16, 2003	:	
Attorney Docket No. 08935-298001 / M-5032	:	

This is a decision on the petition filed February 18, 2010, under the provisions of 37 CFR 1.59(b), to expunge information from the above identified application.

The petition to expunge is **DISMISSED**.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner is seeking to have expunged a Notice of appeal filed on February 18, 2010, from the file record of the instant application, stating that "[the] document was inadvertently filed in the wrong application."

The grant of a petition under 37 CFR 1.59 (b) to expunge information submitted in an incorrect application will be governed by the factors: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated 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; (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; (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and (F) the petition fee as set forth in 37 CFR 1.17(g) is included. See MPEP 724.05 (III). The instant petition fails to satisfy the factors (B), (D) and (E).

In regard to factors (B) and (D), the instant petition fails to include a statement that states (a) failure to obtain the return of the information submitted 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 (b) that 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.

In regard to item (E), petitioner should note that the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F above, are satisfied, the information will be removed from the official file.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicant(s) or applicant(s)' representative. No further fee is required for such a second submission of a petition under 37 CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the present file, or file claiming priority to the present file, is forwarded for issuance of the patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.**

The fee required for consideration of the instant petition is $200. Petitioner has paid $130. The balance of $70 has been charged to the Deposit Account 06-1050, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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.**

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) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: Denis G. Maloney
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Gordon G. Guay	:	
Application No. 10/664,818	:	DECISION ON REQUEST FOR REFUND
Filed: September 16, 2003	:	
Attorney Docket No. 08935-298001 / M-5032	:	

This is a decision on the Request for Refund filed February 18, 2010.

The request is **DISMISSED**.

A Notice of appeal was filed on February 17, 2010, in the instant application. Petitioner now files the above request for refund in the amount of $540.00, and states that "[t]he charge to the Deposit Account was made in error and accordingly, applicant respectfully requests that the amount be refunded to Fish & Richardson's Deposit Account No. 06-1050, referencing attorney docket no. 08935-298001, as a credit."

Petitioner 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).

In the instant petition, petitioner has stated, "[o]n or about February 18, 2010, Applicants paid **the required fee** of $540.00 for a Notice of Appeal by way of Deposit Account" (emphasis added). Assuming *arguendo* that the Notice of Appeal was filed "by mistake", the submission of fee therewith, as also noted in the instant request, is "required" to take that action i.e., filing of Notice of Appeal. As such, the Notice of Appeal fee cannot be refunded.

In regard to petitioner's argument that "[t]he charge to the Deposit Account was made in error", it is noted that, in the Notice of Appeal filed February 18, 2010, petitioner stated, "[p]lease apply the $540.00 appeal fee and any other charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 08935-392002." In view of the explicit authorization given to the Office as noted above, the charge to the Deposit account was not made in error.

In view of the above, the request for refund is dismissed as neither the fees were not paid "by mistake" nor "[t]he charge to the Deposit Account was made in error".

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

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) 272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: Denis G. Maloney
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 1729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10664818 Patent No.: 7935457

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
Fax the Director/SPE response to 571-270-9990

Note: **Col. 12, line 25, delete "heat" and insert --heating --**

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

/Ula C. Ruddock 1729

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 1, 2011

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction for Appl. No.: 10665129 Patent No.: 7490709

CofC mailroom date: June 12, 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

Note: _____

_____

_____
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: _____

_____

_____

_____

_____

SPE 3653 **Art Unit**

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of
Rong Wen et al.
Application No. 10/665,203
Filed: September 18, 2003
Attorney Docket No. **MACUS.002A**

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b)" filed January 13, 2012. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 48 days to 182 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 one hundred eighty-one **(181)** days. A copy of the updated PTA calculation, showing the correct determination, is enclosed.

On December 15, 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 forty-eight days. On January 13, 2012, applicants timely[1] submitted the instant application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred eighty-two **(182)** days. Applicants dispute the reduction of 156 days attributed to applicant pursuant to 37 C.F.R. § 1.704 (c)(7), applicants dispute the reduction of 89 days for the response filed July 10, 2009, in accordance with the decision in Arqule v. Kappos, 2010 U.S. Dist. Ct. Motions 1904, 2011 (D.D.C. 2011), and applicants dispute the reduction of 67 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on July 23, 2010 after the filing of a response to an Office Action on May 17, 2010.

Applicants argue that the while a non-Final Office Action was mailed July 6, 2007, to which a response was due, an amendment was filed August 7, 2007 solely for the purpose of provoking an interference by presenting claims that were copied in significant part from U.S. Patent 7,083,803, which issued on August 1, 2006.

---

[1] PALM records indicate that the Issue Fee was received in the Office on January 13, 2012.

Applicants submit that the proper calculation of Applicant delay under 37 C.F.R. § 1.704(b) is the period in excess of 3 months taken to reply to the Office Action issued on July 6, 2007. As such, Applicants submit that the 90-day period between the date that is 3 months after the issuance of the July 6, 2007 Office Action and the response filed on January 4, 2008 is the correct calculation of Applicant delay. A review of the application history reveals that applicants are correct. The record supports a conclusion that the amendment filed August 7, 2007 was not intended as a response, that the period of applicant delay should be calculated pursuant to 37 C.F.R. § 1.704(b) and not pursuant to 37 C.F.R. § 1.704 (c)(7). Accordingly, the period of reduction of 156 days is being removed and a period of reduction of 90 days is being entered.

Applicants dispute the reduction of 1 day for the response filed July 10, 2009. "The Office counted the period in excess of 3 months taken to reply to the Office Action issued on January 12, 2009 as 89 days of Applicant delay. Applicants respectfully submit that April 12, 2009 (the date that is 3 months after the date of issuance of the January 12, 2009 Office Action) fell on a Sunday. As such, the effective 3-Month deadline was April 13, 2009, in accordance with the decision in ArQule v. Kappos, 2010 U.S. Dist. Ct. Motions 1904, 2011 (D.D.C. 2011). As such, Applicants submit that the 88-day period between the day after Monday, April 13, 2009 and the response filed on July 10, 2009 is the correct calculation of Applicant delay".

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)

Applicant's arguments have been considered, but not found persuasive. Applicant is incorrect that this period of reduction, pursuant to 35 U.S.C. § 154(b) (2) (C) and 37 CFR 1.704(b), is incorrectly calculated as 89 days. The weekend/holiday exception does not apply to the period of applicant delay at issue. The Office action was mailed on January 12, 2009, with a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a) . It is recognized that the three-month deadline, April 12, 2009, ended on a Sunday. However, in this instance, applicant did not exercise the §21(b) weekend/holiday exception to file a timely response under §133 on the following business day. Applicant timely filed a reply on July 10, 2009, with an extension of time for response within 3 months. In other words, the reply filed July 10, 2009 was not timely filed pursuant to 35 U.S.C. §21(b) . Thus, the period of reduction was properly calculated as 89 days counting the number of days beginning on the day after the date that is three months after the date of mailing of the Office action, April 13, 2009 and ending on the date the reply was filed, July 10, 2009. Accordingly, the period of reduction of 89 days will be retained.

With respect to applicant's argument that the reduction of 67 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on July 23, 2010 after the filing

of a response to an Office Action on May 17, 2010, 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. The record does not support a conclusion that the IDS was expressly requested by the examiner.

Accordingly, filing of the IDS may be considered a failure to engage and a proper basis for reduction.

However, the record supports a conclusion that the IDS was received July 23, 2010 with a 37 CFR 1.704(d) statement.

> 37 CFR 1.704(d) provides that a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered (result in a reduction) under 37 CFR 1.704(c)(6), 1.704(c)(8), 1.704(c)(9), or 1.704(c)(10) if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This provision will permit applicants to submit information first cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is promptly (within thirty days of receipt of the first communication) submitted to the Office. Compliance with the statement requirement of 37 CFR 1.704(d) does not substitute for compliance with any relevant requirement of 37 CFR 1.97 or 1.98. 37 CFR 1.704(d) also provides that this thirty-day period is not extendableeply was expressly requested by the examiner, within the meaning of § 1.704(c)(8). Accordingly, no reduction is warranted.

In view thereof, no reduction should have been taken for the filing of the IDS, July 23, 2010, after the mailing of the response to the Final Office Action on May 17, 2010 and thus, 67 days applicant delay is being removed.

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 181 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised

patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The 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 the undersigned 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*: 10665203 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10665203

Application Filing Date	09/18/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	713
A Delays	713	PTO Manual Adjustment	133
B Delays	0	Applicant Delay (APPL)	665
C Delays	0	Total PTA (days)	181

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
148	03/17/2012		P028	Adjustment of PTA Calculation by PTO	67		0
147	03/17/2012		P028	Adjustment of PTA Calculation by PTO		90	0
146	03/17/2012		P028	Adjustment of PTA Calculation by PTO	156		0
130	12/15/2011		MN/=.	Mail Notice of Allowance			0
129	12/12/2011		OAR	Office Action Review			0
128	12/12/2011		IREV	Issue Revision Completed			0
127	12/12/2011		N/=.	Notice of Allowance Data Verification Completed			0
126	12/12/2011		DOCK	Case Docketed to Examiner in GAU			0
125	11/15/2011		OAR	Office Action Review			0
124	11/15/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
123	11/15/2011		DVER	Document Verification			0
122	11/12/2011		CNTA	Allowability Notice			0
119	09/10/2011		FWDX	Date Forwarded to Examiner			0
118	08/26/2011		A...	Response after Non-Final Action			0
117	06/10/2011		ELC_RVW	Electronic Review			0
116	06/10/2011		EML_NTF	Email Notification			0
115	06/10/2011		MCTNF	Mail Non-Final Rejection			0
114	06/06/2011		OAR	Office Action Review			0
113	06/06/2011		CTNF	Non-Final Rejection			0
112	04/06/2011		IDSC	Information Disclosure Statement considered			0
111	04/06/2011	03/18/2011	M844	Information Disclosure Statement (IDS) Filed		19	108
110	04/06/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
109	03/21/2011		FWDX	Date Forwarded to Examiner			0
108	03/18/2011		A.QU	Response after Ex Parte Quayle Action			0
107	03/17/2011		ELC_RVW	Electronic Review			0
106	03/17/2011		EML_NTF	Email Notification			0
105	03/17/2011	03/04/2011	MCTEQ	Mail Ex Parte Quayle Action (PTOL - 326)	13		90
104	03/13/2011		OAR	Office Action Review			0
103	03/12/2011		CTEQ	Quayle action			0
102	12/27/2010		FWDX	Date Forwarded to Examiner			0
101	12/27/2010		MAPCA	Mail Appeals conf. Rej. withdrawn			0
100	12/22/2010		APCA	Pre-Appeals Conference Decision - Rejection Withdrawn			0
98	12/03/2010		MM327	Mail Miscellaneous Communication to Applicant			0
97	11/30/2010		M327	Miscellaneous Communication to Applicant - No Action Count			0
92	11/05/2010		FWDX	Date Forwarded to Examiner			0
99	11/04/2010		AP.C	Request for Pre-Appeal Conference Filed			0
91	11/04/2010		AP/A	Amendment/Argument after Notice of Appeal			0
90	11/04/2010		N/AP	Notice of Appeal Filed			0
89	08/18/2010		DOCK	Case Docketed to Examiner in GAU			0
93	08/05/2010		IDSC	Information Disclosure Statement considered			0
88	08/05/2010		M844	Information Disclosure Statement (IDS) Filed			0
87	08/05/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
86	08/04/2010		ELC_RVW	Electronic Review			0
85	08/04/2010		EML_NTF	Email Notification			0
84	08/04/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
83	08/02/2010		CTFR	Final Rejection			0
82	07/23/2010		RCAP	Reference capture on IDS			0
81	07/23/2010	05/17/2010	M844	Information Disclosure Statement (IDS) Filed		67	75
79	07/23/2010		IDSC	Information Disclosure Statement considered			0
78	07/23/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
76	05/19/2010		FWDX	Date Forwarded to Examiner			0
77	05/17/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
75	05/17/2010	02/18/2010	A...	Response after Non-Final Action		88	69
74	05/17/2010		XT/G	Request for Extension of Time - Granted			0
80	12/02/2009		IDSC	Information Disclosure Statement considered			0

73	12/02/2009		M844	Information Disclosure Statement (IDS) Filed			0
72	12/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
71	11/18/2009		ELC_RVW	Electronic Review			0
70	11/18/2009		EML_NTF	Email Notification			0
69	11/18/2009	11/10/2009	MCTNF	Mail Non-Final Rejection	8		66
68	11/09/2009		CTNF	Non-Final Rejection			0
67	08/29/2009		FWDX	Date Forwarded to Examiner			0
66	07/10/2009	04/12/2009	A...	Response after Non-Final Action		89	61
65	07/10/2009		XT/G	Request for Extension of Time - Granted			0
63	01/13/2009		ELC_RVW	Electronic Review			0
62	01/12/2009		EML_NTF	Email Notification			0
61	01/12/2009		MCTNF	Mail Non-Final Rejection			0
60	01/05/2009		CTNF	Non-Final Rejection			0
57	10/29/2008		FWDX	Date Forwarded to Examiner			0
59	10/06/2008		IDSC	Information Disclosure Statement considered			0
58	10/06/2008	10/02/2008	EIDS.	Electronic Information Disclosure Statement		4	56
54	10/06/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
56	10/02/2008	07/03/2008	A...	Response after Non-Final Action		91	51
55	10/02/2008		XT/G	Request for Extension of Time - Granted			0
53	04/04/2008		ELC_RVW	Electronic Review			0
52	04/03/2008		EML_NTF	Email Notification			0
51	04/03/2008		MCTNF	Mail Non-Final Rejection			0
50	03/31/2008		CTNF	Non-Final Rejection			0
46	01/23/2008		FWDX	Date Forwarded to Examiner			0
42	01/08/2008		DOCK	Case Docketed to Examiner in GAU			0
49	01/04/2008		IDSC	Information Disclosure Statement considered			0
48	01/04/2008		RCAP	Reference capture on IDS			0
47	01/04/2008	01/04/2008	M844	Information Disclosure Statement (IDS) Filed			45
45	01/04/2008	08/01/2007	A...	Response after Non-Final Action		156	37
44	01/04/2008		XT/G	Request for Extension of Time - Granted			0
43	01/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
41	10/20/2007		EML_NTR	Email Notification			0
40	10/19/2007		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
38	08/02/2007		FWDX	Date Forwarded to Examiner			0
37.1	08/01/2007		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
37	08/01/2007		A...	Response after Non-Final Action			0
36	07/10/2007		ELC_RVW	Electronic Review			0
35	07/07/2007		EML_NTF	Email Notification			0
34	07/06/2007		MCTNF	Mail Non-Final Rejection			0
33	06/25/2007		CTNF	Non-Final Rejection			0
31	04/18/2007		FWDX	Date Forwarded to Examiner			0
30	04/10/2007	01/11/2007	ELC.	Response to Election / Restriction Filed		89	24
29	04/10/2007		XT/G	Request for Extension of Time - Granted			0
24	10/11/2006	11/18/2004	MCTRS	Mail Restriction Requirement	692		0.5
32	10/02/2006		IDSC	Information Disclosure Statement considered			0
26	10/02/2006		RCAP	Reference capture on IDS			0
25.7	10/02/2006		M844	Information Disclosure Statement (IDS) Filed			0
25	10/02/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
23	10/02/2006		CTRS	Restriction/Election Requirement			0
22	01/30/2006		IDSC	Information Disclosure Statement considered			0
21	01/30/2006		RCAP	Reference capture on IDS			0
20.7	01/30/2006		M844	Information Disclosure Statement (IDS) Filed			0
20	01/30/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
19	01/12/2006		A.PE	Preliminary Amendment			0
18	12/08/2005		C.ADB	Correspondence Address Change			0
17	11/16/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	11/16/2005		DOCK	Case Docketed to Examiner in GAU			0
15	05/16/2005		OIPE	Application Dispatched from OIPE			0
14	05/16/2005		COMP	Application Is Now Complete			0
10	05/04/2005		C.AD	Correspondence Address Change			0
9	05/04/2005		PA..	Change in Power of Attorney (May Include Associate POA)			0
13	03/17/2005	01/14/2005	ADDFLFEE	Additional Application Filing Fees		62	8
12	03/17/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
11	03/17/2005		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
8	10/14/2004		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	12/02/2003		L128	Cleared by L&R (LARS)			0
4	12/02/2003		CLSS	CASE CLASSIFIED BY OIPE			0
3	12/02/2003		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	11/05/2003		SCAN	IFW Scan & PACR Auto Security Review			0
1	09/18/2003		IEXX	Initial Exam Team nn			0
0.5	09/18/2003		EFILE	Filing date			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 11, 2010

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction for Appl. No.:10/665467 /Patent no. 7309324

Please respond to this request for a certificate of correction w
ithin 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,329,324 B2

APPLICATION NO.: 10/655,467

ISSUE DATE : Feb. 12, 2008

INVENTOR(S) : Boatwright et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

addition of the following omitted information on the face of the patent:

(22) PCT Filed: June 30, 2003

(86) PCT No.: PCT/US2003/020418

(87) PCT Pub. No.: WO 2004/008921 A1

PCT Pub. Date: Jan. 29, 2004

Related U.S. Application Data

(60) Provisional application No. 60/392,261, filed on July 1, 2002.
Provisional appliction No. 60/411,347, filed on Sept. 18, 2002

MAILING ADDRESS OF SENDER (Please do not use customer number below):
LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA, VIRGINIA 22314

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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HARRIET M. STRIMPEL, D. Phil.
New England Biolabs, Inc.
240 COUNTY ROAD
IPSWICH MA 01938-2723

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,282,328	:	
Issue Date: October 16, 2007	:	
Application No. 10/665,633	:	NOTICE
Filed: September 19, 2003	:	
Attorney Docket No. NEB-210-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 1, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
Lund, et al. :
Application No. 10/665,648 : ON APPLICATION FOR
Filed: September 19, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. **PRD2559USNP**

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. 1.705)", filed July 16, 2010, 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 one thousand, eight hundred and ninety-five (1,895) days, not eight hundred and ninety-three (893) 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 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).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

DEC 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Focht et al.	:	
Application No. 10/665,670	:	
Filed: September 18, 2003	:	DECISION ON PETITION
Attorney Docket No. 9042M	:	UNDER 37 C.F.R. § 1.137(B)
Title: STRIPED LIQUID PERSONAL	:	
CLEANSING COMPOSITIONS	:	
CONTAINING A CLEANSING PHASE	:	
AND A SEPERATE BENEFIT PHASE	:	

This is a decision on the petition filed November 10, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned due to the September 1, 2010 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on November 2, 2010, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on December 10, 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

1 See MPEP § 1216.

action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed the petition fee and the proper statement of unintentional delay. The concurrently submitted Request for Continued Examination (RCE), the associated fee, and an amendment have been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on November 10, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries

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2 See Rule 1.137(d).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,687	09/17/2003	David M. Skinlo	Q137-US6	6258

31815 7590 10/15/2010
MARY ELIZABETH BUSH
QUALLION LLC
P.O. BOX 923127
SYLMAR, CA 91392-3127

EXAMINER
HODGE, ROBERT W

ART UNIT	PAPER NUMBER
1729	

MAIL DATE	DELIVERY MODE
10/15/2010	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

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wk

OCT 15 2010

Mailed :
In re Application of
Skinlo
Serial No. 10/665,687
Filed: September 17, 2003
For: ELECTRIC STORAGE BATTERY CONSTRUCTION AND METHOD OF MANUFACTURE

: DECISION ON
: PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on August 18, 2010.

Applicant filed an Amendment on April 27, 2010. Applicant added new claim 90, which depended from claim 68, which in turn depended from claim 43. Claim 43 claims an electric storage battery. In the Office Action mailed July 13, 2010, the Examiner applied a restriction to claim 90. The Examiner asserted that the newly submitted claim was directed to an invention that is independent or distinct from the invention originally claimed because the claim is directed to a method of disassembling the battery of claim 68.

The Examiner set forth the position that since Applicant has received an action on the merits for the originally presented invention, this invention (claim 90) has been constructively elected by original presentation for prosecution on the merits. Claim 90 was withdrawn from consideration as being directed to a non-elected invention.

If, after an office action on an application, the Applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the Applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

Pending claims must be "given their broadest reasonable interpretation consistent with the specification. Claim 90 recites "the battery of claim 68". Limitations cited in claim 90 are structural limitations.

10/665,687

DECISION

The petition is **GRANTED.**

Claim 90 is to be rejoined.

/SHARON GIBSON/
Director, Technology Center 1700
Chemical and Materials Engineering

MARY ELIZABETH BUSH
QUALLION LLC
P.O. BOX 923127
SYLMAR CA 91392-3127

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FENWICK & WEST, LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Patent No. 7,860,702	:	
Issue Date: December 28, 2010	:	
Application No. 10/666,209	:	DECISION ON PETITION
Filed: September 17, 2003	:	TO WITHDRAW FROM
Patentee(s): Peter B. Evans, et. al.	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed October 22, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw practitioners associated with customer number 00758, when the Oath/Declaration and Power of Attorney filed on September 17, 2003 and February 17, 2004 originally granted power to the attorneys/agents individually.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

The request cannot be approved because practitioners were not appointed by customer number. Therefore, the correspondence address of record will remain as the above-listed address[1].

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith1
Petitions Examiner
Office of Petitions

cc: Peter B. Evans
25259 LaLoma Drive
Los Altos Hills, CA 94022

[1] Consideration was given to this request since it was filed prior to issuance; however, no further consideration will be given to request under 37 CFR 1.36 since the above patent has issued.

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TECHLAW LLP
10755 SCRIPPS POWAY PARKWAY, SUITE 465
SAN DIEGO CA 92131

MAILED
NOV 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Guillermo C. BAZAN et al.	:	
Application No. 10/666,333	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,144,950	:	
Filed: September 17, 2003	:	
Attorney Docket No. 2003-445-1		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **THOMAS J. MCFARLANE**
LUMEN PATENT FIRM
350 CAMBRIDGE AVE., SUITE 100
PALO ALTO, CA 94306

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7192220	2007-03-20	10666409	2003-09-19	5200

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	/James M. Duncan/	Date (YYYY-MM-DD)	2011-07-30
Name	James M. Duncan	Registration Number	44664

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. 7192220
Issue Date: March 20,2007
Application No. 10666409
Filed: September 19,2003
Attorney Docket No. 5200

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 30,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ELSA KELLER
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Darrell D. Burckhardt	:	
Application No. 10/666,491	:	DECISION ON PETITION
Filed: September 19, 2003	:	
Attorney Docket No. **2003P07968 US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 07, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 01, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 01, 2006. Accordingly, the date of abandonment of this application is March 02, 2007.

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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a

reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **VINCENT DE LUCA**
NOVAK DRUCE DELUCA & QUIGG, LLP
300 NEW JERSEY AVENUE, N.W.
FIFTH FLOOR
WASHINGTON DC 20001

UNITED STATES 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. 6929036
Issue Date: August 16,2005
Application No. 10666583
Filed: September 17,2003
Attorney Docket No. AWAD.A-07

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 15,2011 ,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 15,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,929,036	2005-08-16	10/666,583	2003-09-17	AWAD.A-07

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ John M. Taboada /	Date (YYYY-MM-DD)	2011-08-15
Name	John M. Taboada	Registration Number	52268

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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RADER, FISHER & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,022,356
Issue Date: April 4, 2006
Application No. 10/666,608
Filed: September 18, 2003
Attorney Docket No. 66192-0003

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed March 23, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 4, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The Power of Attorney and Change of Address filed with the petition on March 23, 2011, has not been made of record because the assignee has not submitted a statement under 37 CFR 3.73(b). Please see the attached Form PTO/SB/96. Petitioner should also see the Manual of Patent Examining Procedure (MPEP) 2540 and 2542, as appropriate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being referred to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER J. FALKOWSKI
FALKOWSKI PLLC
P.O. BOX 650
NOVI, MI 48376-0650

Attachment: PTO/SB/96 - Statement Under 37 CFR 3.73(b)

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

LAW OFFICE OF DELIO & PETERSON, LLC.
121 WHITNEY AVENUE
NEW HAVEN, CT 06510

Mail Date: 08/02/2010

Applicant	: Evan E. Koslow	: DECISION ON REQUEST FOR
Patent Number	: 7655112	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/666,878	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2003	: 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **3-18-11**

TO SPE OF : ART UNIT **3738**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10666900** Patent No.: **7887593**

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: _____

3738 Corinne McDermott — **SPE**

3738 — **Art Unit**

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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Patton Boggs LLP/ Johnson & Johnson
8484 Westpark Drive
Suite 900
McLean VA 22102

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of
MacDonald, et al.
Application No. 10/667,096
Filed: September 18, 2003
Attorney Docket No. PRD-2110-USANP

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 24, 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 **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin at (571) 272-3222. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1647 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/667,096	09/18/2003	1647	1832	PRD-2110-USANP	12	6

CONFIRMATION NO. 1638

CORRECTED FILING RECEIPT

93358
Patton Boggs LLP/ Johnson & Johnson
8484 Westpark Drive
Suite 900
McLean, VA 22102

OC000000043475002

Date Mailed: 09/13/2010

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)

Brian R. MacDonald, Bryn Mawr, PA;
Kenneth Kaushansky, Del Mar, CA;

Power of Attorney: The patent practitioners associated with Customer Number 93358

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/411,779 09/18/2002
and claims benefit of 60/411,700 09/18/2002
and claims benefit of 60/498,740 08/28/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/667,096**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods of increasing platelet and hematopoietic stem cell production

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Suite 201
Westfield, New Jersey 07090

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Sheng-Ping ZHONG et al.	:	DECISION GRANTING PETITION
Application No. 10/667,151	:	UNDER 37 CFR 1.137(b)
Filed: 18 September 2003	:	
Atty. Docket No.: 03-151US1(4010/60)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 31 December 2010, to revive the above-identified application ("Application").

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed 21 December 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on 21 February 2010. *See* MPEP 1215.04.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of an Appeal Brief, (2) a petition fee of $1620.00, and (3) a Statement of unintentional delay. The Appeal Brief is accepted as having been unintentionally delayed.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Technology Center 1611.

David Buck
Petitions Examiner
Office of Petitions

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PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN, PA 19312-1183

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Deborah W. COHEN, et *al.* :
Application No. 10/667,245 : DECISION ON PETITION
Filed: September 17, 2003 : UNDER 37 CFR 1.181
Attorney Docket No. **135344.00101** :

This is a decision on the petition, filed September 21, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-responsive Amendment action mailed August 28, 2008, which set a one (1) month or thirty day (30) statutory period for reply. A Notice of Abandonment was mailed on June 6, 2009.

Petitioner asserts that the Office action dated August 28, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1794 for re-mailing the Office action of August 28, 2008. The period for reply will run from the mailing date of the Office action.

Thurman K. Page
Petitions Examiner
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 29 2011
OFFICE OF PETITIONS

In re Application of :
Jeyhan KARAOGUZ et al. :
Application No. 10/667,833 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No 14286US02 :

This is in response to the petition, filed August 29, 2011, under 37 CFR 1.59(b) to expunge information submitted under MPEP 724.05(II).

The petition is **DISMISSED.**

The petition filed August 29, 2011 requests that the Notice of Appeal and Pre-Appeal Brief Request for Review filed August 29, 2011, be expunged from the record.

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated 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;
(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;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The instant petition fails to comply with items (B), (C), (D), and (E) above.

For the reasons given above, the petition under 37 CFR 1.59 to expunge the Notice of Appeal and Pre-Appeal Brief Request for Review is dismissed.

Telephone inquiries regarding this decision should be directed to David Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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NOV 21 2011
OFFICE OF PETITIONS

In re Application :
Hui, et al. :
Application No. 10/667,931 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: September 22, 2003 :
Dkt. No.: N0469.70022US02 :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed October 13, 2011.

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 93 days, not 168 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed August 29, 2011. Applicants assert that the patent term adjustment is subject to an additional reduction of 75 days in connection with supplemental replies filed February 22, 2010, August 15, 2011, and August 24, 2011.

The arguments presented have been carefully reviewed and found convincing. In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 93 days, as argued.

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

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* changes this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the **effective or published** 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 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).

The Adjusted PAIR Calculation can be assessed via public and/or private PAIR.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Patent Term Adjustments

PTA/PTE Information

Application Number*: 10667931 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10667931

Application Filing Date	09/22/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	697
A Delays	697	PTO Manual Adjustment	-75
B Delays	0	Applicant Delay (APPL)	529
C Delays	0	Total PTA (days)	93

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
143	11/19/2011		P028	Adjustment of PTA Calculation by PTO		9	0
142	11/19/2011		P028	Adjustment of PTA Calculation by PTO		60	0
141	11/19/2011		P028	Adjustment of PTA Calculation by PTO		6	0
129	08/29/2011		MN/=.	Mail Notice of Allowance			0
128	08/26/2011		OAR	Office Action Review			0
127	08/26/2011		OAR	Office Action Review			0
126	08/26/2011		OAR	Office Action Review			0
125	08/26/2011		OAR	Office Action Review			0
124	08/26/2011		OAR	Office Action Review			0
123	08/26/2011		IREV	Issue Revision Completed			0
122	08/25/2011		OAR	Office Action Review			0
121	08/25/2011		OAR	Office Action Review			0
120	08/25/2011		OAR	Office Action Review			0
119	08/25/2011		OAR	Office Action Review			0
118	08/25/2011		OAR	Office Action Review			0
117	08/24/2011		IDSC	Information Disclosure Statement considered			0
116	08/24/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
110	08/24/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
109	08/24/2011		DVER	Document Verification			0
108	08/24/2011		N/=.	Notice of Allowance Data Verification Completed			0
115	08/16/2011		OAR	Office Action Review			0
114	08/16/2011		OAR	Office Action Review			0
113	08/16/2011		OAR	Office Action Review			0
112	08/16/2011		OAR	Office Action Review			0
111	08/16/2011		OAR	Office Action Review			0
107	08/16/2011		EX.R	Reasons for Allowance			0
106	08/16/2011		EX.A	Examiner's Amendment Communication			0
105	08/16/2011		CTRT	Telephonic restriction			0
104	08/16/2011		EXIE	Interview Summary - Examiner Initiated			0
103	08/16/2011		CNTA	Allowability Notice			0
97	08/15/2011		IDSC	Information Disclosure Statement considered			0
94	08/15/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
92	06/23/2011		FWDX	Date Forwarded to Examiner			0
91	06/16/2011	03/16/2011	A...	Response after Non-Final Action		92	89
90	06/16/2011		XT/G	Request for Extension of Time - Granted			0
89	12/16/2010		MCTNF	Mail Non-Final Rejection			0
88	12/15/2010		CTNF	Non-Final Rejection			0
86	10/20/2010		FWDX	Date Forwarded to Examiner			0
85	10/18/2010	07/16/2010	A...	Response after Non-Final Action		94	82
84	10/18/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
83	10/18/2010		XT/G	Request for Extension of Time - Granted			0
82	04/16/2010		MCTNF	Mail Non-Final Rejection			0
81	04/16/2010		CTNF	Non-Final Rejection			0
80	02/22/2010		RCAP	Reference capture on IDS			0
79	02/22/2010		M844	Information Disclosure Statement (IDS) Filed			0
78	02/22/2010		IDSC	Information Disclosure Statement considered			0
76	02/22/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
75	02/18/2010		FWDX	Date Forwarded to Examiner			0
72	02/18/2010		ABN9	Disposal for a RCE / CPA / R129			0
74	02/16/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
73	02/16/2010	11/13/2009	RCEX	Request for Continued Examination (RCE)		95	69
71	02/16/2010		XT/G	Request for Extension of Time - Granted			0
70	02/16/2010		BRCE	Workflow - Request for RCE - Begin			0
69	08/13/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
68	08/12/2009		CTFR	Final Rejection			0
63	06/05/2009		FWDX	Date Forwarded to Examiner			0
62	04/30/2009	02/04/2009	A...	Response after Non-Final Action		85	60
61	04/30/2009		XT/G	Request for Extension of Time - Granted			0
60	11/04/2008		MCTNF	Mail Non-Final Rejection			0
59	11/03/2008		CTNF	Non-Final Rejection			0
52	10/15/2008		DOCK	Case Docketed to Examiner in GAU			0
51	10/08/2008		FWDX	Date Forwarded to Examiner			0
49	10/08/2008		FWDX	Date Forwarded to Examiner			0
47	10/08/2008		ABN9	Disposal for a RCE / CPA / R129			0
50	09/11/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
48	09/11/2008	06/11/2008	RCEX	Request for Continued Examination (RCE)		92	43
46	09/11/2008		XT/G	Request for Extension of Time - Granted			0
45	09/11/2008		BRCE	Workflow - Request for RCE - Begin			0
44	04/14/2008		DOCK	Case Docketed to Examiner in GAU			0
43	03/11/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0

39	02/12/2008		C.ADB	Correspondence Address Change			0
38	01/08/2008		DOCK	Case Docketed to Examiner in GAU			0
37	12/22/2007		FWDX	Date Forwarded to Examiner			0
36	11/21/2007		A...	Response after Non-Final Action			0
35	10/03/2007		MCTNF	Mail Non-Final Rejection			0
34	09/19/2007		CTNF	Non-Final Rejection			0
33	07/14/2007		FWDX	Date Forwarded to Examiner			0
32	07/11/2007	05/15/2007	A...	Response after Non-Final Action		57	30
31	07/11/2007		XT/G	Request for Extension of Time - Granted			0
30	02/15/2007		MCTNF	Mail Non-Final Rejection			0
29	02/05/2007		CTNF	Non-Final Rejection			0
27	12/04/2006		IDSC	Information Disclosure Statement considered			0
26	12/04/2006		RCAP	Reference capture on IDS			0
25.7	12/04/2006	11/20/2006	M844	Information Disclosure Statement (IDS) Filed		14	23
25	12/04/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
24	11/23/2006		FWDX	Date Forwarded to Examiner			0
23	11/20/2006		ELC.	Response to Election / Restriction Filed			0
22	10/20/2006	11/22/2004	MCTRS	Mail Restriction Requirement	697		0.5
21	10/16/2006		CTRS	Restriction/Election Requirement			0
20	08/21/2006		DOCK	Case Docketed to Examiner in GAU			0
17	09/28/2004		C.ADB	Correspondence Address Change			0
16.7	07/14/2004		M844	Information Disclosure Statement (IDS) Filed			0
16	07/14/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
28	06/30/2004		IDSC	Information Disclosure Statement considered			0
19	06/30/2004		RCAP	Reference capture on IDS			0
18.7	06/30/2004		M844	Information Disclosure Statement (IDS) Filed			0
18	06/30/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
15	05/05/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	05/05/2004		DOCK	Case Docketed to Examiner in GAU			0
10	12/16/2003		WROIPE	Application Return from OIPE			0
9	12/16/2003		COMP	Application Is Now Complete			0
8	12/16/2003		W/OA	Pre-Exam Office Action Withdrawn			0
7	12/16/2003		ROIPE	Application Return TO OIPE			0
6	12/16/2003		OIPE	Application Dispatched from OIPE			0
5	12/16/2003		COMP	Application Is Now Complete			0
4	12/03/2003		CLSS	CASE CLASSIFIED BY OIPE			0
3	12/03/2003		L194	Cleared by OIPE CSR			0
13	11/20/2003		RCAP	Reference capture on IDS			0
12.7	11/20/2003		M844	Information Disclosure Statement (IDS) Filed			0
12	11/20/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
2	10/31/2003		SCAN	IFW Scan & PACR Auto Security Review			0
11	10/15/2003		A.PE	Preliminary Amendment			0
1	09/22/2003		IEXX	Initial Exam Team nn			0
0.5	09/22/2003		EFILE	Filing date			0

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,035	09/22/2003	Dominic P. Behan	AREN-005CON (5.US10.CON)	2177

65643 7590 08/25/2011
Arena Pharmaceuticals, Inc.
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

EXAMINER
LI, RUIXIANG

ART UNIT	PAPER NUMBER
1646	

MAIL DATE	DELIVERY MODE
08/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

United States Patent and Trademark Office

AUG 2 5 2011

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David Scherer
Arena Pharmaceuticals, Inc.
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto CA 94303

In re Application of	:
Behan	:Decision on Petition
Serial No.: 10/668,035	:
Filed : 22 September 2003	:
Attorney Docket No.: AREN-005CON	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 31 May 2011 requesting reconsideration of the restriction requirement mailed 13 May 2010.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to restriction practice under Chapter 800.

On 29 June 2006, the examiner set forth a restriction requirement which divided claims 1-19 into six groups.

On 20 December 2006, applicants elected Group V, claims 1-4 and 8-16, with traverse.

On 10 April 2007, the examiner considered the traversal and made the restriction requirement final. Claims 5-7 and 8-15 were withdrawn from consideration under 37 CFR 1.42(b).

On 24 January 2008, the examiner mailed a second non-final action in which claims 1-3, 8-10 and 20-21 were examined on the merits. These claims were then finally rejected on the merits in an Office action mailed 15 December 2008. Dependent claim 8 is shown below.

> 8. (Currently amended) The method of claim 1 wherein said orphan receptor is selected from the group consisting of: GPR3 (SEQ ID NO:46), GPR4 (SEQ ID NO:60), GPR6 (SEQ ID NO:47), GPR12 (SEQ ID NO:48), GPR21 (SEQ ID NO:50), OGR1 (SEQ ID NO:27), GHSR (SEQ ID NO:45), RE2 (SEQ ID NO:23) and ALO22171 (SEQ ID NO:49).

On 9 March 2010, the examiner mailed applicants a miscellaneous action requiring applicants to elect an orphan GPRC from dependent claim 8 in response to the restriction requirement dated 20 December 2006.

On 13 May 2010, in a second restriction requirement, the examiner divides the already examined claims up into 9 groups depending upon the SEQ ID NO of the orphan receptor agonist recited in dependent claim 8.

On 11 November 2010, applicants elected Group I, GPR3 (SEQ ID NO 46) with traverse. Claim 9 was then withdrawn from consideration as being directed to a non-elected invention. Claims 1-3, 8-10 and 20-25 were examined on the merits. Claims 1-3, 8, 10, 20, 21 and 23-25 were objected to for reciting non-elected orphan GPCRs.

On 31 May 2011, applicants filed a response along with this petition.

DISCUSSION

The file history of the instant application has been considered carefully.

The petition points out that the examiner has placed Markush claims into groups for the purposes of restriction. Because applicant's claims are drafted in Markush-type format, the petition argues that they should be considered under the guidelines of MPEP 803.02. This is persuasive.

Further, it is noted that on 9 February 2011, the Office issued A Federal Register Notice entitled "Supplemental Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for treatment of Related Issues in Patent Applications." Page 7166 sets forth guidelines for the treatment of Markush-type claims:

> "Under principles of compact prosecution, the examiner should also require the applicant to elect a species or group of indistinct species for search and examination (i.e., an election of species). If the examiner does not find the species or group of indistinct species in the prior art, then the examiner should extend the search to those additional species that fall within the scope of a permissible Markush claim. In other words, the examiner should extend the search to the species that share a single structural similarity and a common use. The improper Markush claim should be examined for patentability over the prior art with respect to the elected species or group of indistinct species, as well as the species that share a single structural similarity and a common use with the elected species or group of indistinct species (i.e., the species that would fall within the scope of a proper Markush claim)."

In view of these new guidelines, the restriction requirement between the embodiments of the Markush claims is unwarranted and is hereby replaced with a provisional election of species requirement.

Further, applicant has argued that the examiner has not followed the election and examination practice for Markush claims. MPEP 803.02 requires extended examination of other embodiments. See:

> 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.

Lastly, it is noted that the examiner has objected to claims for reciting non-elected subject matter. This is counter to MPEP 803.02, which permits applicants to retain non-elected subject recited in the alternative of a Markush claim. It is noted that MPEP 809 also permits generic claims to encompass non-elected species.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 31 May 2011 is **GRANTED** as follows.

The intraclaim restriction requirement set forth on 13 May 2010 requiring applicants to elect a single GPCR of Markush claim 8 has been withdrawn and replaced with an election of species requirement. The elected GPR3 (SEQ ID NO 46) will continue to be the starting place for examination.

The objection to claims for reciting non-elected subject matter has been withdrawn.

The application will be forwarded to the examiner to consider the papers filed 31 May 2011 in a manner consistent with this petition decision. Markush claims are to be examined according to the guidance in MPEP 803.02 and the FR Notice. Generic claims will be examined according to MPEP 809.

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 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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)
7254879	2007-08-14	10668123	2003-09-23	6048-04017

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric B. Meyertons/	Date (YYYY-MM-DD)	2011-08-19
Name	Eric B. Meyertons	Registration Number	34876

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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. 7254879
Issue Date: August 14,2007
Application No. 10668123
Filed: September 23,2003
Attorney Docket No. 6048-04017

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 19,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 19,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EMULEX DESIGN & MANUFACTURING CORPORATION
C/O MORRISON & FOERSTER LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES CA 90013

MAILED
NOV 15 2010
OFFICE OF PETITIONS

In re Patent No. 7,093,037	:	
Issued: August 15, 2006	:	
Application No. 10/668,138	:	ON PETITION
Filed: September 22, 2003	:	
Attorney Docket No. 491442001900	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 8, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 16, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

MAILED

OCT 20 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,043,764 :
Issue Date: May 16, 2006 :
Application No. 10/668,192 :
Filed: September 24, 2003 :
Attorney Docket No. 1931.0003C :

This is a decision on the petition filed May 24, 2010 which is being treated as a petition filed under 37 CFR 1.377 to accept and record payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A petition to accept and record payment of a maintenance fee must be filed within two months of the action complained of and be accompanied by the fee set forth in § 1.17(g) which is currently $200.

Petitioner did not include the petition fee with his petition and without the required petition fee no consideration can be given on the merits of the petition.

It is noted petitioner provided a copy of an Information Contacts with the instant petition. Should petitioner continue with this petition, it is suggested the renewed petition include the date when petitioner accessed this Contacts listing and how he attained it since the information was apparently out of date at the time payment of the maintenance fee was originally made.

Petitioner may also want to consider filing a petition for unavoidable late payment of the maintenance fee under 37 CFR 1.378(c). This petition requires a surcharge of $1,640 in addition to the maintenance fee payment.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Asher Sky
PO Box 907
Duncansville, PA 16635

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

MAILED
AUG 04 2011
OFFICE OF PETITIONS

In re Patent No. 7,043,764	:	
Issue Date: May 16, 2006	:	
Application No. 10/668,192	:	ON PETITION
Filed: September 24, 2003	:	
Attorney Docket No. 1931.0003C	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 28, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 17, 2010 for failure to pay the four and one half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Asher Sky
P.O. Box 907
Duncansville, PA 16635

UNITED STATES 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 G. Ackerman
2309 South Joyce Street
Arlington VA 22202

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of	:	
John Pope, et al.	:	
Application No. 10/668,228	:	DECISION ON PETITION
Filed: September 24, 2003	:	
Attorney Docket No. 038707.49859C2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 21, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed December 21, 2004. Accordingly, the date of abandonment of this application is March 22, 2005.

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.

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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The power of attorney filed on August 9, 2010 does not include one of the above two options.

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

cc: **Jeffrey B. Oster**
8339 SE 57th Street
Mercer Island, WA 98040

UNITED STATES 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
NOV 30 2010
OFFICE OF PETITIONS

In re Patent No. 6,992,904 :
Issue Date: 31 January, 2006 :
Application No. 10/668,329 : DECISION
Filed: 24 September, 2003 :
Attorney Docket No. 089048-0301

This is a decision on the petition filed on 17 June, 2010, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit, *inter alia*, accurate fee information to the Office at the time of submission.

It does not appear that Petitioner has provided the express schedule of fees/codes, payments made, payments due and differentials, with totals. (*See*: 37 C.F.R. §1.27, §1.28, MPEP §509.02, et seq.)

The Office will not attempt to infer Petitioner's specific intents.

As of this writing, Petitioner's submission is **NOT ACCEPTED** in the absence of a specification of the fees/codes, payments made, payments due and differentials, with totals.

Petitioner's 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 §1.27, §1.28."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The instant petition under 37 C.F.R. §1.27, §1.28 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

The centralized facsimile number is **(571) 273-8300.**

[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).

In re Patent No. 6,992,904
Application No. 10/668,329

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 applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Patent No. 6,992,904 :
Issue Date: 31 January, 2006 :
Application No. 10/668,329 : DECISION
Filed: 24 September, 2003 :
Attorney Docket No. 089048-0301

This is a decision on the petition filed on 15 January, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized**.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the

underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
DEC 07 2010
OFFICE OF PETITIONS

WORKMAN NYDEGGER/Varian
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

In re Patent No. 7,658,987	:	DECISION ON REQUEST FOR
WARBURTON, DON	:	RECONSIDERATION OF
Issue Date: February 9, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/668,537	:	
Filed: September 23, 2003	:	
Attorney Docket No. 14374.106	:	

This is a decision on the REPLY TO DISMISSAL OF PATENTEE'S REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH filed May 19, 2010.

The request for recalculation is **DISMISSED.**

Patentee is given **one (1) month or thirty (30) days, whichever is longer,** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Patentee asserts:

> On April 20, 2010, the United States Patent Office mailed a dismissal to the Patentee's Request for Recalculation of Patent Term Adjustment in view of Wyeth (the "Request") for the above referenced case. In particular, the Request was deemed ineligible for consideration. The Patentee respectfully asserts that the dismissal for ineligibility was improper and requests that the Request be granted and the patent term adjustment for the above referenced case be recalculated in view of Wyeth.

REPLY p. 1.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(1) provides that the period of adjustment of the term of a patent shall not include the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on September 24, 2006. The Office notes that the over three year period ends on the day before the RCE was filed February 20, 2006 (prior to September 24, 2006). See 35 U.S.C. 154(b)(1)(B)(i). Therefore, patentee is not entitled to any period of adjustment pursuant to 37 CFR 1.702(b) for failing to issue a patent within three years from the actual filing date of the application. Thus, the request is deemed ineligible for relief pursuant to Wyeth.

Accordingly, the patent term adjustment remains 1010 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Tyco Healthcare Group LP
d/b/a Covidien
555 Long Wharf Drive
Mail Stop 8-N1, Legal Department
New Haven CT 06511

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Gregory Piskun	:	
Application No. 10/668,542	:	DECISION ON PETITION
Filed: September 23, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. H-US-01904	:	

This is a decision on the petition, filed August 24, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 7, 2005 & July 12, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 23, 2010 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center Art Unit 3739 for examination in due course.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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
10/668,542	09/23/2003	Gregory Piskun	H-US-01904

CONFIRMATION NO. 2121

50855
Tyco Healthcare Group LP
d/b/a Covidien
555 Long Wharf Drive
Mail Stop 8-N1, Legal Department
New Haven, CT 06511

NONPUBLICATION RESCISSION LETTER

OC000000043461681

Date Mailed: 09/13/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/23/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/tsjohnson/

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
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

NOV 23 2011

OFFICE OF PETITIONS

In re Patent No. 6,974,821 :
Issued: December 13, 2005 :
Application No. 10/668,583 : NOTICE
Filed: September 23, 2003 :
Attorney Docket No. 13785-745005 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 23, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Janis K. Fraser
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

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)
7151326	2006-12-19	10668618	2003-09-23	IFS-31837/US-1/PRI

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	/Tyler J. Sisk/	Date (YYYY-MM-DD)	2011-02-09
Name	Tyler J. Sisk	Registration Number	59850

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. 7151326
Issue Date: December 19,2006
Application No. 10668618
Filed: September 23,2003
Attorney Docket No. JOR-001USP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 9,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 9,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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K&L GATES LLP
PO BOX 1135
CHICAGO IL 60690

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Nicely, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/668,670	: AND NOTICE OF INTENT
Filed: September 22, 2003	: TO ISSUE
Patent No. 7,867,080	: CERTIFICATE OF CORRECTION
Issued: January 11, 2011	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed March 10, 2011. Patentee requests that the patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred eighty-nine (889) days to one thousand one (1001) days.

The application for patent term adjustment is **GRANTED**.

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand one (1001) days**.

On March 24, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the instant application. The Notice stated that the patent term adjustment (PTA) to date was six hundred (600) days. On June 9, 2010, Applicant filed a "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE", which was a candor letter indicating that the 600 days of patent term accorded was thought to be longer than appropriate. On January 11, 2011, the application issued into Patent No. 7,867,080, with a patent term adjustment of one thousand one (1001) days.

A review of the file reveals that Applicants were assessed delay of one hundred twenty (120) days for filing the "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE" on June 9, 2010. Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Likewise, the submission of a candor letter will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, zero (0) days should have been assessed for this filing.

Applicants also point out that they should have been assessed additional days of Applicant delay pursuant to 37 CFR 1.704(c)(8). Applicants filed an RCE on January 14, 2008. Subsequently, Applicants filed an IDS on January 22, 2008, and were not assessed any days of Applicant delay. However, pursuant to 37 CFR 1.704(c)(8), eight (8) additional days of Applicant delay should have been assessed for this supplemental filing.

In view thereof, the correct determination of patent term adjustment is one thousand one (1001) days (1235 days of PTO delay, reduced by 234 days of applicant delay).

Receipt of the $200 fee is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **one thousand one (1001) 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: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,867,080 B2

DATED : **January 11, 2011**

INVENTOR(S) : Nicely 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 889 days.

Delete the phrase "by 889 days" and insert – by 1001 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Don J. Carnegie
Suite 5A #540
5405 Alton Parkway
Irvine CA 92604

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,224,308	:	
Issue Date: May 29, 2007	:	
Application No. 10/668,700	:	NOTICE
Filed: September 23, 2003	:	
Attorney Docket No. DC.1006US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 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. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

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 related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Michael J. LaBrie
McAfee & Taft
Tenth Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73102

ATTY REF: 05037.8 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

07/13/2011 DALLEN 00000011 500449 10668700
01 FC:1461 1750.00 DA

In re application of:	Walker Butler et al.	)
Application No.:	10/668,700	)
Filing Date:	September 23, 2003	)
For:	IDENTIFICATION AND LOCATION SYSTEM FOR PERSONNEL AND VEHICLES	)
Patent No.:	7,224,308	)
Issued:	May 29, 2007	)

08/01/2011 GARIAS 00000007 500449 7224308
01 FC:1559 490.00 DA

Box M. Fee
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

NOTIFICATION OF ERROR IN PAYMENT OF FEES AS A SMALL ENTITY (37 C.F.R. § 1.28(c))

Applicant asserted small entity status in this application on September 23, 2003 by payment of the basic filing fee as a small entity. A change occurred whereby small entity status could no longer be claimed. As a result of the change, the fees listed below were erroneously paid at the small entity rate. This error was made in good faith.

Adjustment date: 08/01/2011 GARIAS
07/13/2011 DALLEN 00000012 500449 7224308
01 FC:1599 490.00 CR

I hereby certify that this correspondence is being faxed to United States Patent and Trademark Office on the date shown below.

07/13/2011 DALLEN 00000012 500449 7224308
01 FC:1599 490.00 DA

Michael J. LaBrie
July 11, 2011
Date

Itemization of the Fee Erroneously Paid as Small Entity

Fee erroneously paid as small entity	Fee actually paid as small entity	Date paid	Deficiency Owed
Petition for Extension time – one month	60.00	08/22/2006	$70.00
Petition for Revival of an application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)	$750.00	02/08/2007	$870.00
Issue Fee and Publication Fee	$1000.00	02/08/2007	$810.00
First maintenance fee	$490.00	01/16/2009	$490.00

The total deficiency owed is $2,240.00. The Commissioner is hereby authorized to charge the amount of $2,240.00 to Deposit Account No. 500449. The Commissioner is also authorized to charge any fee deficiency or any overpayment to Deposit Account No. 500449.

Respectfully submitted,

July 11, 2010
Date

Michael J. LaBrie
Registration No. 39,507
McAfee & Taft
Tenth Floor, Two Leadership Square
211 North Robinson
Oklahoma City, Oklahoma 73102
Phone: (405) 552-2305
Fax: (405) 228-7305
E-mail: michael.labrie@mcafeetaft.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Don J. Carnegie
Suite 5A #540
5405 Alton Parkway
Irvine CA 92604

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Patent No. 6,950,021	:	
Issue Date: September 27, 2005	:	
Application No. 10/668,710	:	NOTICE
Filed: September 23, 2003	:	
Attorney Docket No. DC.1005US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 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. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

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 related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Michael J. LaBrie
McAfee & Taft
Tenth Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73102

UNITED STATES 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 19, 2012

Patent No. : 8,097,607 B2
Appl. No. : 10/668,792
Inventor(s) : Bernard E. Cabana, et al.
Issued : January 17, 2012
Title : **LOW DOSE RIFALAZIL COMPOSITIONS**
Docket No. : **4354-110**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

The petition under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
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
(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

By fax: (571) 273-8300
ATTN: Office of Petitions

EFS-Web (Web-based Electronic Filing System) accessible through the Electronic Business Center (EBC);

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Hultquist IP
P.O. Box 14329
RESEARCH TRIANGLE PARK NC 27709

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re United States Patent Application of:		**Docket No.:**	**4354-110-RCE2**
Applicants:	**CABANA, Bernard E., et al.**	**Conf. No.:**	**4322**
Application No.:	**10/668,792**	**Date Filed:**	**September 23, 2003**
Patent No.:	**8,097,607**	**Date Issued:**	**January 17, 2012**
Title:	**LOW DOSE RIFALAZIL COMPOSITIONS**	**Customer No.:**	**23448**

FACSIMILE TRANSMISSION CERTIFICATE
Fax No. (571) 273-8300

I hereby certify that this document is being filed in the United States Patent and Trademark Office, via facsimile transmission, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, and transmitted on the date specified below, to United States Patent and Trademark Office facsimile transmission number (571) 273-8300.

8 Pages
Number of Pages

Lani K. Willcockson

Lani K. Willcockson

April 9, 2012
Date

RENEWED REQUEST FOR ISSUANCE OF CERTIFICATE OF CORRECTION FOR U.S. PATENT NO. 8,097,607 UNDER THE PROVISIONS OF 37 CFR § 1.323

Commissioner for Patents
Attn: Office of Petitions
P.O. Box 1450
Alexandria, Virginia 22313-1450

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4354-110-RCE2

Sir:

We have received the March 19, 2012 notification from the Commissioner for Patents that our request for issuance of a Certificate of Correction, as submitted on February 9, 2012, was denied. In response, we are renewing our Request for a Certificate of Correction, and submitting the information required to correct the Assignees' names under Rule 3.81(b).

Enclosed is a copy of the Assignments Data page obtained from the United States Patent and Trademarks Office Website, showing that all assignments in the above-identified patent were submitted for recordation before the issuance of the patent.

Further enclosed is a Certificate of Correction submitted to correct an omission by the applicants of the Assignee Name and Residence Data to be Printed on the Patent when submitting the Part B – Fee(s) Transmittal Form on December 14, 2011. It is respectfully requested that the patent document be corrected to include the Assignee Name and Residence Data as follows:

Name of Assignee: ActivBiotics Pharma, LLC
Residence: Tucker Georgia

The $100.00 fee required under 37 CFR 1.20(a) was previously paid for consideration of our February 9, 2012 request for issuance of a Certificate of Correction. A Credit Card Form authorizing payment of $130.00 is enclosed for the processing fee set forth in 37 CFR 1.17(i), the fee for taking action under §3.81.

4354-110-RCE2

Respectfully submitted,

David Bradin
Reg. No. 37,783
Attorney for Applicants

HULTQUIST IP
P.O. Box 14329
Research Triangle Park, NC 27709
Phone: (919) 419-9350
Fax: (919) 419-9354
Attorney File No.: 4354-110-RCE2

Encl:
Copy of Assignments Data page obtained from the United States Patent and Trademark Office website [1 pg.]
Certificate of Correction [1 pg.]
Credit Card Form [1 pg.]
Return Copy of the Denial of the Issuance of a Certificate of Correction [2 pgs.]

The USPTO is hereby authorized to charge any deficiency or credit any overpayment of fees properly payable for this document to Deposit Account No. 08-3284

PAGE 3/8 * RCVD AT 4/9/2012 2:56:23 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/15 * DNIS:2738300 * CSID:9194199354 * DURATION (mm-ss):04-46

10/668,792	LOW DOSE RIFALAZIL COMPOSITIONS	4354-110	03-13-2012::15:27:18

Patent Assignment Abstract of Title

Total Assignments: 4

Application #: 10668792 **Filing Dt:** 09/23/2003 **Patent #:** 8097607 **Issue Dt:** 01/17/2012
PCT #: NONE **Publication #:** US20040157840 **Pub Dt:** 08/12/2004
Inventors: Bernard E. Cabana, Arthur F. Michaelis, Gary P. Magnant, Chalom B. Sayada
Title: LOW DOSE RIFALAZIL COMPOSITIONS

Assignment: 1

Reel/Frame: 015224 / 0832 **Received:** 04/21/2004 **Recorded:** 04/19/2004 **Mailed:** 10/07/2004 **Pages:** 4
Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).
Assignors: CABANA, BERNARD E. **Exec Dt:** 04/06/2004
MICHAELIS, ARTHUR F. **Exec Dt:** 04/06/2004
MAGNANT, GARY P. **Exec Dt:** 04/06/2004
Assignee: ACTIVBIOTICS, INC.
128 SPRING STREET
LEXINGTON, MASSACHUSETTS 02421
Correspondent: CLARK & ELBING LLP
KAREN L. ELBING
101 FEDERAL STREET
BOSTON, MA 02110

Assignment: 2

Reel/Frame: 015330 / 0199 **Received:** 05/19/2004 **Recorded:** 05/17/2004 **Mailed:** 11/05/2004 **Pages:** 4
Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).
Assignor: SAYADA, CHALOM B. **Exec Dt:** 05/10/2004
Assignee: ACTIVBIOTICS, INC.
128 SPRING STREET
LEXINGTON, MASSACHUSETTS 02421
Correspondent: CLARK & ELBING LLP
KAREN L. ELBIN, PH.D.
101 FEDERAL STREET
BOSTON, MA 02110

Assignment: 3

Reel/Frame: 020835 / 0427 **Received:** 04/21/2008 **Recorded:** 04/18/2008 **Mailed:** 04/22/2008 **Pages:** 30
Conveyance: RELEASE OF SECURITY INTEREST
Assignor: HORIZON TECHNOLOGY FUNDING COMPANY LLC **Exec Dt:** 03/24/2008
Assignee: ACTIVBIOTICS, INC.
C/O JOSEPH F. FINN, JR., ASSIGNEE FOR THE BENEFIT OF CREDITORS
167 WORCESTER STREET, SUITE 201
WELLESLEY HILLS, MASSACHUSETTS 02481-3613
Correspondent: MICHAEL K. STEWART
THREE RAVINIA DRIVE
SUITE 1450
ATLANTA, GEORGIA 30346

Assignment: 4

Reel/Frame: 020866 / 0584 **Received:** 04/28/2008 **Recorded:** 04/25/2008 **Mailed:** 04/30/2008 **Pages:** 11
Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).
Assignor: FINN JR.,JOSEPH F., AS ASSIGNEE FOR THE BENEFIT OF CREDITORS OF ACTIVBIOTICS, INC. **Exec Dt:** 03/24/2008
Assignee: ACTIVBIOTICS PHARMA LLC
2881 PEACHTREE ROAD, NE UNIT 2204
ATLANTA, GEORGIA 30305
Correspondent: MICHAEL K. STEWART
SUITE 1450
THREE RAVINIA DRIVE
ATLANTA, GEORGIA 30346

Search Results as of: 03/13/2012 15:26:51 PM

Disclaimer:
Assignment information on the assignment database reflects assignment documents that have been actually recorded.
If the assignment for a patent was not recorded, the name of the assignee on the patent application publication or patent may be different.
If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 571-272-3350

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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,097,607

APPLICATION NO.: 10/668,792

ISSUE DATE : January 17, 2012

INVENTOR(S) : Cabana, Bernard E.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Inclusion of the following Assignee data:

Name of Assignee: ActivBiotics Pharma, LLC
Residence: Tucker, Georgia

MAILING ADDRESS OF SENDER (Please do not use customer number below):

David Bradin
Hultquist IP
P.O. Box 14329
Research Triangle Park NC 27709

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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March 19, 2012

Patent No. : 8,097,607 B2
Appl. No. : 10/668,792
Inventor(s) : Bernard E. Cabana, et al.
Issued : January 17, 2012
Title : **LOW DOSE RIFALAZIL COMPOSITIONS**
Docket No. : **4354-110**

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In view of the foregoing, your request, in this mater, is hereby denied.

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

The petition under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314
(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

By fax: (571) 273-8300
ATTN: Office of Petitions

EFS-Web (Web-based Electronic Filing System) accessible through the Electronic Business Center (EBC);

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Hultquist IP
P.O. Box 14329
RESEARCH TRIANGLE PARK NC 27709

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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LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,217,284	:	
Issue Date: May 15, 2007	:	
Application No. 10/669,204	:	ON PETITION
Filed: September 23, 2003	:	
Attorney Docket No. **HNMDNN00101**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed January 25, 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

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1125
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
Hsu :
Application No. 10/669,422 :
Filed: September 24, 2003 :
Attorney Dkt. No. PE0673 US NA :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 10, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. As no claim was allowed, the application became abandoned on November 11, 2010. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; 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.

Petitioner has requested that the previously paid extension of time fee be applied to the petition to revive fee. However, the extension of time submitted on September 10, 2010 was used for the timely submission of the Notice of Appeal. As such petitioner is not entitled to a refund or a re-application of the fees for a different purpose.

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 continuation application No. 13/045,207.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions